Also, a bill (H. R. 12680) granting an increase of pension to Patrick E. O'Conner—to the Committee on Invalid Pensions.

By Mr. SHERMAN: A bill (H. R. 12681) granting a pension to Ann Atkins—to the Committee on Invalid Pensions.

By Mr. SPINOLA: A bill (H. R. 12682) to reappoint Warren C. Beach a captain in the Army, and to place him on the retired list in addition to the number now authorized—to the Committee on Military Affairs.

By Mr. STONE, of Kentucky: A bill (H. R. 12683) to increase the pension of Ira R. Mounce from $4 to $24 per month—to the Committee on Invalid Pensions.

By Mr. VAN SCHAICK: A bill (H. R. 12684) granting a pension to Louisa A. Starkweather—to the Committee on Invalid Pensions.

By Mr. WILSON, of Washington: A bill (H. R. 12685) to increase the pension of George Hazzard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 12686) for the relief of George P. Ihrie—to the Committee on Military Affairs.

By Mr. VANDEVER: A joint resolution (H. Res. 255) for appointment of George H. Bonebrake manager of the National Homes for Disabled Soldiers—to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAMS: Petition of merchants and bankers of Chicago, for extension of bonded period under tariff act of 1890 till July 1, 1891—to the Committee on Ways and Means.

By Mr. BINGHAM: Petition of Wesley Stillwell, to accompany House bill 12644—to the Committee on Military Affairs.

By Mr. BUCHANAN, of New Jersey: Protest of Moorestown (N. J.) Grange, No. 8, Patrons of Husbandry, against further appropriations for irrigating purposes—to the Committee on Appropriations.

Also, petition of New Jersey Nonpartisan Woman's Christian Temperance Union, for passage of bill appointing a commission on alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. CARUTH: Papers to accompany House bill 11300, granting an increase of pension to August Steen—to the Committee on Invalid Pensions.

Also, papers to accompany House bill 12608, granting an increase of pension to Thomas T. Hickey—to the Committee on Invalid Pensions.

Also, papers to accompany House bill 1195, increasing the pension of Washington M. Rice—to the Committee on Pensions.

By Mr. CHIPMAN: Petition of Raymon H. Newton on bill pending; also brief of facts relating thereto—to the Committee on Invalid Pensions.

Also, petition of Michael Bassett, late of the First Michigan Mexican Volunteers, for a pension—to the Committee on Pensions.

Also, application of Frank Paul, Company E, Fifth Michigan Cavalry, and petition of acquaintances, for removal of charge of desertion—to the Committee on Military Affairs.

Also, papers in case of Candace Mills—to the Committee on Invalid Pensions.

By Mr. COGSWELL: Petition of Thomas E. Burnham and 347 others, citizens of Haverhill and Bradford, Mass., for the passage of the ex-prisoners of war pension bill—to the Committee on Invalid Pensions.

Also, petition of Endicott Council, No. 30, Order United American Mechanics, for certain restrictions on immigration—to the Committee on Labor.

By Mr. CUMMINGS: Petition of the Seventh Regiment of the State National Guards of New York, praying Congress to continue the pension granted to the late Major General Abram Duryee to his widow, Caroline E. Duryee—to the Committee on Invalid Pensions.

Also, petition of the Maritime Association of the port of New York, favoring the reduction of letter postage to 1 cent—to the Committee on the Post Office and Post Roads.

By Mr. DOCKERY: Petition of Carroll Union, No. 100, De Kalb County, Missouri, demanding the free coinage of silver, etc.—to the Committee on Coinage, Weights, and Measures.

By Mr. EVANS: Petition of Harry Guthrie, asking to be reimbursed for loss of property, for services, etc.—to the Committee on War Claims.

By Mr. FITHIAN: Petition of William N. Organ, of Hardinsville, Ill., for increase of pension—to the Committee on Invalid Pensions.

By Mr. HENDERSON, of Iowa: Petition of Harriet Hood, in respect to pension—to the Committee on Invalid Pensions.

Also, petition of Marienna Steth Truehart, in respect to pension—to the Committee on Invalid Pensions.

Also, petition of 15 citizens of Bremer and Blackhawk Counties, Iowa, urging the speedy passage of House bill 5353, defining options, futures, etc.—to the Committee on Agriculture.

Also, petition of 18 citizens of Guthrie County, Iowa, for same measure—to the Committee on Agriculture.

Also, petition of 15 citizens of Muscatine County, Iowa, urging passage of same measure—to the Committee on Agriculture.

Also, petition of Sherman Alliance, No. 1697, of Iowa, urging passage of same measure—to the Committee on Agriculture.

Also, petition of 17 citizens of Benton County, Iowa, for same measure—to the Committee on Agriculture.

Also, petition of 31 citizens of Sigourney, Iowa, urging passage of same measure—to the Committee on Agriculture.

By Mr. HOLMAN: Resolutions in favor of Senate bill 3991 (the Paddock bill) by the Merchants and Manufacturers' Club of Madison, Ind.—to the Committee on Agriculture.

By Mr. KENNA: Petition of the Ladies' Silk Culture Association of California—to the Committee on Agriculture.

By Mr. MARTIN, of Indiana: Petition of J. A. Rindehen, A. S. Wilson, H. Kemp, and 45 others, citizens of Roanoke, Ind., for the passage of the options bill, H. R. 5353—to the Committee on Agriculture.

By Mr. OUTHWAITE: Petition of James Dunn, late of Company B, Fortieth Massachusetts Volunteers, for the passage of an act granting him an increase of pension—to the Committee on Invalid Pensions.

By Mr. PARRETT: Petition of John K. Thompson to accompany House bill 12625, granting a pension to him—to the Committee on Invalid Pensions.

By Mr. PAYNTER: Petition of James E. Dickey, for a pension—to the Committee on Invalid Pensions.

By Mr. RANDALL: Petition of J. E. Burbank and others, for increased compensation of jurors—to the Committee on the Judiciary.

Also, petition of John Kendrick and others, of Orleans, Mass., for increased compensation for fourth-class postmasters—to the Committee on the Post Office and Post Roads.

Also, petition of James Hopkins and others, of Princetown, Mass., for increased compensation of keepers of life-saving stations and surfmen—to the Committee on Commerce.

Also, petition of John Wing and others, of New Bedford, Mass., for the passage of the same measure—to Committee on Commerce.

Also, petition of Shuebel B. Kelly and others, of Harwich, Mass., for same measure—to the Committee on Commerce.

Also, petition of Benjamin D. Gifford and others, of Chatham, Mass., for passage of same measure—to the Committee on Commerce.

By Mr. RUSSELL: Petition of Hartford Typographical Union, No. 127, in favor of House bill 8046 and against the Senate substitute—to the Committee on Printing.

By Mr. SENEY: Petition of the Board of Womanhood of Fostoria, Ohio, favoring Senate bill 4173, for the suppression of vice—to the Committee on Labor.

Also, petition Benjamin F. Sanford, of Seneca County, Ohio, for relief—to the Committee on Invalid Pensions.

Also, petition of I. H. W. Blake and others, citizens of the same county and State, for passage of Senate bill 4173—to the Committee on Labor.

By Mr. STONE, of Kentucky: Memorial of Azariah Rice, dependent father of William Rice, deceased, late soldier in Company A, Seventeenth Kentucky Cavalry Volunteers, for a pension—to the Committee on Invalid Pensions.

By Mr. STRUBLE: Petition of Andrew Rude and 25 citizens of Monona County, Iowa, requesting the immediate passage of House bill 5353—to the Committee on Agriculture.

By Mr. WILSON, of Washington: Memorial of the citizens of Tacoma, Wash., protesting against legislation by Congress compelling railroads to transport petroleum barrels free—to the Committee on Commerce.

Also, petition for rebate amendment to the tariff and tax bill—to the Committee on Ways and Means.

Also, petition of certain citizens of Washington, for same amendment—to the Committee on Ways and Means.

Also, petition of certain other citizens of Washington, for same amendment—to the Committee on Ways and Means.

Also, petition of certain citizens of Tacoma, Wash., for same amendment—to the Committee on Ways and Means.

SENATE.

TUESDAY, *December* 16, 1890.

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

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

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of the Interior; which was read, as follows:

DEPARTMENT OF THE INTERIOR, *Washington, December* 15, 1890.

SIR: I have the honor to inclose for the information of the Senate a copy of a letter from the Commissioner of Education, of date December 5, 1890, and also a copy of a letter from Dr. Sheldon Jackson, United States general agent of education in Alaska, to the Commissioner, of date November 12, 1890, relative to the impoverished and destitute condition of the native inhabitants in Alaska, consequent upon the destruction of their sources of livelihood by the whaling-fishery, seal-hunting, and walrus-hunting industries, and suggesting the establishment of an agricultural and mechanical college and the instruction by means of the same of the natives in the rearing and management of the domestic

reindeer for their support, the same to be introduced from Eastern Siberia and Northern Europe.

Very respectfully,

GEO. CHANDLER, *Acting Secretary.*

THE PRESIDENT OF THE UNITED STATES SENATE.

The VICE PRESIDENT. The communication, with the accompanying papers, will be printed and referred to the Committee on Education and Labor.

Mr. SHERMAN. I should like to look at the papers before a reference is made.

Mr. DAWES. What reference did the presiding officer give it?

The VICE PRESIDENT. Is it suggested that the communication should be referred to the Committee on Indian Affairs?

Mr. DAWES. I do not think it should go to the Committee on Indian Affairs.

Mr. SHERMAN. I will look at the communication and see to what committee it should be referred.

Mr. DAWES. Those people to whom this communication refers have no connection with the Committee on Indian Affairs.

Mr. COCKRELL. I should like to have the communication again read. It will take but a moment.

Mr. SHERMAN. Let it to go the Committee on Education and Labor. I think that is the proper reference.

The VICE PRESIDENT. The communication will be again read at the request of the Senator from Missouri.

The Chief Clerk read the communication.

Mr. DAWES. I move the reference of the communication and the accompanying papers to the Committee on Education and Labor.

The motion was agreed to.

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of the Treasury, requesting that an appropriation of $25,000 be made for the United States customhouse and post-office building at Cincinnati, Ohio, for the purpose of painting walls and ceilings and making miscellaneous repairs; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the petition of J. M. Dalzell, praying for the restoration of the franking privilege on all letters concerning pension and other claims; which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of the First Lutheran Church of Fostoria, Ohio, praying for the passage of Senate bill 4173, to provide for a national commission to investigate social vice; which was ordered to lie on the table.

He also presented a communication from the secretary of the interstate deep-harbor committee, embodying a statement and resolutions adopted by that committee thanking the Government for the work done on Galveston Harbor, Texas; which was referred to the Committee on Commerce.

Mr. TURPIE presented the petition of Samuel M. Mosely, of Indianapolis, Ind., a soldier in the Union Army, praying for a correction of his military record and other relief; which was referred to the Committee on Military Affairs.

Mr. GORMAN presented the petition of Julia Nolan, of Baltimore, Md., praying to be allowed a widow's pension; which was referred to the Committee on Pensions.

Mr. PETTIGREW presented the petition of Jewett Brothers and other citizens of Aberdeen, S. Dak., praying for an amendment to the tariff law granting a rebate on tobacco and snuff in unbroken packages; which was ordered to lie on the table.

Mr. EVARTS presented the petition of 24 citizens of Troy, N. Y., and the petition of 5 citizens of the city of New York, praying for the passage of the international copyright bill; which were ordered to lie on the table.

He also presented the petition of 11 citizens of Rochester, N. Y. praying for the passage of the bankruptcy bill; which was ordered to lie on the table.

He also presented resolutions of the New York Board of Trade and Transportation, remonstrating against the passage of the Conger lard bill; which were ordered to lie on the table.

Mr. ALLISON. I submit certain resolutions and petitions favoring the passage of the Conger lard bill so called. I ask that these may be separately noted in the RECORD, and as that bill has been reported they may lie on the table. I hope the committee in charge of this bill will seek an early opportunity to bring it to the attention of the Senate.

The VICE PRESIDENT. The petitions will lie on the table.

The resolutions and petitions favoring the passage of the Conger lard bill, so called, are as follows:

Resolutions of the Union Alliance, No. 1115, Union County, Iowa;

Resolutions of the Springdale Farmers' Alliance, Cedar County, Iowa;

Resolutions of the Utica and Jersey Ridge Alliance, No. 1601, Davenport, Iowa;

Resolutions of Independence Alliance, No. 1552, Dickinson County, Iowa;

Resolutions of the Milford Centre Alliance, No. 473, Iowa;

Resolutions of Indian Hill Alliance, Iowa;

Resolutions of the Lancaster Alliance, No. 1464, Iowa;

Resolutions of the Farmers' Alliance, No. 1276, Guthrie County, Iowa;

Resolutions of the Farmers' Alliance, No. 1797, Montpelier, Iowa;

Resolutions of the Salem Farmers' Alliance, No. 1733, Wapello County, Iowa;

Resolutions of the Grand Mound Alliance, No. 1599, Clinton County, Iowa;

Resolutions of the Lewis Township Farmers' Alliance, No. 1684, Iowa;

Resolutions of the Madrid Alliance, Boone County, Iowa;

Resolutions of the Buena Vista Grange, No. 544, Iowa;

Resolutions of the Central Alliance, No. 1780, and the Randalia Alliance, Iowa, No. 1846;

Resolutions of the Sigourney Iowa, Farmers' Alliance No. 1807;

Petition of J. H. Lord and 39 other citizens of Wayne County, Iowa;

Petition of A. J. Duer and 19 other citizens of Wayne County, Iowa;

Petition of Anton Thoene and 15 other citizens of Muscatine County, Iowa;

Petition of E. J. Davis and 17 other citizens of Guthrie County, Iowa;

Petition of John E. Beckwith and 13 other citizens of Cass County, Iowa;

Petition of W. E. Fry and 16 other citizens of Benton County, Iowa;

Petition of Daniel Wilcox and 15 other citizens of Sac County, Iowa.

Petition of W. H. Petty and 19 other citizens of Woodbury County, Iowa;

Petition of A. W. Curran and 17 other citizens of Kossuth County, Iowa;

Petition of Andrew Rude and 22 other citizens of Monona County, Iowa;

Petition of Michael Reinert and 30 other citizens of Keokuk County, Iowa;

Petition of J. G. Mash and 25 other citizens of Wapello County, Iowa;

Petition of William A. Thompson and 23 other citizens of Green County, Iowa;

Petition of W. A. Guthrie and 21 other citizens of Page County, Iowa;

Petition of Henry Rogge and 23 other citizens of Scott County, Iowa;

Petition of R. S. Hopkins and 19 other citizens of Dickinson County, Iowa; and

Petition of D. B. Cherry and 14 other citizens of Marion County, Iowa.

Mr. PIERCE presented a petition of 214 citizens of Morton County, South Dakota, praying for the enlargement and maintenance of Fort Abraham Lincoln; which was referred to the Committee on Military Affairs.

Mr. SHERMAN presented a memorial of members of the bar of Toledo and Northwestern Ohio, indorsing House bill 9014, to define and regulate the jurisdiction of the courts of the United States; which was ordered to lie on the table.

Mr. BLAIR (after the election bill had been taken up). I present the memorial of the District Assembly No. 66, Knights of Labor, of this city, also of the legislative committee, signed by H. J. Schulteis, praying and setting forth the great effort that has been made by the labor organizations of the country to secure legislation and especially with reference to the eight-hour law, and declaring that in their judgment the pending election bill is in nowise to be compared in importance to that, and praying the Senate to set aside the consideration of the election bill in order that the labor legislation may be acted upon. As these bills are all them pending before the Senate, having been reported by the committee, I ask that the memorial lie on the table.

The VICE PRESIDENT. It will be so ordered.

Mr. VEST. Let it be read.

Mr. HOAR. I object.

The VICE PRESIDENT. Objection is made by the Senator from Massachusetts.

Mr. HOAR. There is another matter before the Senate and the rule expressly provides that petitions shall not be read, but merely a statement of their contents made.

Mr. VEST. This is the first time in my experience here that the request of a Senator that a petition be read has been objected to.

Mr. HOAR. I have no objection to its being read after the pending bill is disposed of.

Mr. VEST. If we have time to receive petitions at all, it seems to me that we have time to hear them read. The Senator from New Hampshire stated very briefly, but I did not catch the substance of the petition or the name of the petitioners.

Mr. BLAIR. The Senator from Massachusetts withdraws his objection to this matter.

The VICE PRESIDENT. The petition will be read, the objection being withdrawn.

Mr. HOAR. I have not withdrawn the objection. I say I have no objection when the proper time comes.

The VICE PRESIDENT. The memorial will lie on the table.

REPORTS OF COMMITTEES.

Mr. DAVIS, from the Committee on Pensions, to whom was referred the bill (H. R. 9132) granting a pension to Lydia Hood, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 337) granting a pension to Levi Danley, reported it with an amendment, and submitted a report thereon.

Mr. CHANDLER, from the Committee on Naval Affairs, submitted a report to accompany the bill (S. 2664) terminating the reduction in numbers of the Engineer Corps of the Navy, heretofore reported by him.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, to whom was referred the bill (H. R. 6975) to provide for an additional associate justice of the supreme court of Arizona, reported it with an amendment, and submitted a report thereon.

BILLS INTRODUCED.

Mr. HOAR introduced a bill (S. 4642) granting a pension to George Hayes; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HOAR. I also introduce, by request of the Wage-Workers' Political Alliance of the District of Columbia, a bill to establish a department of co-operative Indian colonies, and for other purposes. I introduce this bill as it is prepared, by request of the association who prepared it, although it contains some headlines and other matter which does not usually accompany bills printed for the Senate. I ask the clerks to strike those out before the bill is sent to the printer.

The bill (S. 4643) to establish a department of co-operative Indian colonies, and for other purposes was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. GORMAN introduced a bill (S. 4644) granting a pension to Julia Nolan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DOLPH introduced a bill (S. 4645) for the relief of Peter Gleason; which was read twice by its title, and referred to the Select Committee on Indian Depredations.

He also introduced a bill (S. 4646) for the relief of John R. Benefield; which was read twice by its title, and, with the accompanying papers, referred to the Select Committee on Indian Depredations.

Mr. FAULKNER introduced a bill (S. 4647) granting a pension to Joseph Elliot; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 4648) granting a pension to J. W. Bartlett; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GIBSON introduced a bill (S. 4649) to purchase portrait of Henry Clay painted by Healy in 1845; which was read twice by its title, and referred to the Committee on the Library.

Mr. ALLEN introduced a bill (S. 4650) for the relief of John Byrd; which was read twice by its title, and, with the accompanying papers, referred to the Select Committee on Indian Depredations.

He also introduced a bill (S. 4651) for the relief of John C. Smith; which was read twice by its title, and, with the accompanying papers, referred to the Select Committee on Indian Depredations.

He also introduced a bill (S. 4652) for the relief of O. A. Moar, only child, heir, and distributee of John Moar, deceased; which was read twice by its title, and referred to the Select Committee on Indian Depredations.

Mr. WILSON, of Iowa, introduced a bill (S. 4653) granting a pension to Mrs. M. M. Robb Stafford; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Pensions.

AMENDMENTS TO BILLS.

Mr. PASCO submitted an amendment intended to be proposed by him to the Federal election bill; which was ordered to lie on the table and be printed.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (S. 165) to amend chapter 6 of Title XXXII of the Revised Statues, relating to mineral lands and mining resources; which was ordered to lie on the table and be printed.

JOHN I. DAVENPORT'S ACCOUNTS AND CLAIMS.

The VICE PRESIDENT. The Chair lays before the Senate a resolution offered by the Senator from Alabama [Mr. MORGAN], coming over from a previous day.

Mr. VEST. Let that be laid aside for the present. The Senator from Alabama is not in.

Mr. HOAR. Let the resolution be read before it is laid on the table. I should like to hear it.

The VICE PRESIDENT. The resolution will be read.

The Chief Clerk read the resolution submitted yesterday by Mr. MORGAN, as follows:

Resolved, 1. That the Secretary of the Treasury is directed to inform the Senate, without delay, of the dates at which the claims of John I. Davenport, as chief supervisor of elections for the southern district of New York, for the years 1884, 1885, 1886, and 1888 were presented for allowance and when the same were respectively paid.

2. That he further inform the Senate what payments have been made out of the Treasury of the United States to said John I. Davenport for fees or services of any kind rendered by him as a commissioner of the circuit court of the United States for the southern district of New York from the year 1872 to 1889, both inclusive, and the nature of the services for which such payments were made. And also what sums were claimed by said Davenport, as commissioner, and were disallowed within said period.

Mr. HOAR. If the Senator from Missouri will give me his attention I will state that that resolution was introduced yesterday by the Senator from Alabama after the conclusion of the morning hour, and he desired its immediate passage at that time. It went over on my objection, because I wanted simply to be sure that I understood it and to see whether anything should be added to it. I make no further objection to its passage.

Mr. HARRIS. If there be no objection, I ask that the resolution may be considered.

Mr. VEST. Very well.

The VICE PRESIDENT. The question is on agreeing to the resolution.

Mr. EDMUNDS. Let it be again read.

The VICE PRESIDENT. The resolution will be again read.

The Chief Clerk read the resolution.

Mr. EDMUNDS. I wish to call attention to a mere phrase. I do not think it is quite gracious to address the Secretary of the Treasury in so peremptory a form as "without delay." I suggest that the language be changed so as to read "as soon as practicable," which, in substance, means the same thing, but it is a little more dignified.

Mr. HARRIS. I do not think that there would be any objection to that if the Senator from Alabama were here.

The VICE PRESIDENT. That amendment will be considered as agreed to, if there be no objection. The question is on agreeing to the resolution as modified.

Mr. HOAR. Mr. President, I received a letter from Mr. Davenport a few days ago, after some charges against him had been made and expressed with some severity in the Senate. I think it is proper that that letter should be laid before the Senate, and as this is as appropriate an occasion as any, I ask the Secretary to read it as part of my remarks.

The VICE PRESIDENT. The letter will be read, if there be no objection.

The Chief Clerk read as follows:

WASHINGTON, D. C., *December* 12, 1890.

SIR: I have been, for some days, a listener to the debate in the Senate upon the proposed amendments to the national election laws, and regret to say that I have observed a tendency on the part of some who oppose the passage of the amendatory act to found charges of official misconduct against me upon sensational items read from the newspapers, which charges have no foundation in fact.

I instance the reading by Senator GRAY of an extract from the New York Herald of October, 1872, in reference to the arrest of one George A. Heinrich, and his remarks thereon. As a matter of fact Mr. Heinrich's case was made a charge against me before the United States circuit court in an effort to remove me from office, and, after trial, the charges were dismissed, the court holding that my action was in accordance with law and free from all charge of partisanship.

Yesterday Senator DANIEL read from the New York Sun a statement that at the last election there were issued by national officers in the city of New York "five thousand warrants" for the arrest of alleged violators of the law. This statement the Senator read over and over again and commented upon with some asperity.

As a matter of fact there were but eight hundred such warrants issued by all the circuit court commissioners.

In view of the course which some members of the Senate have adopted and to the end that the facts may be ascertained, I desire to say that I offer myself to your committee, or any other which the Senate may designate, for examination under oath and the most searching cross-examination on the part of any Senator.

I trust the Senate will authorize some committee to examine me. It will make the facts clear and certain. Possibly it may throw some light upon the necessity for the passage of an amendatory act.

I have the honor to be, yours very respectfully,

JOHN I. DAVENPORT,
Chief Supervisor of Elections, Southern District of New York.

To the CHAIRMAN *of the Senate Committee on Privileges and Elections.*

Mr. GORMAN. I wish to inquire of the Senator from Massachusetts what he proposes to do with this communication. Is it his purpose now to offer a resolution instructing the Committee on Privileges and Elections or a special committee to examine the conduct of this gentleman while in office? I trust he will do that.

Mr. HOAR. I have not considered that question. I propose to consult other members of the committee about it. It seems to be a very proper request on the part of the official who signs the letter. I should be very glad indeed to have it done myself.

Mr. GORMAN. I trust the Senator and the Committee on Privileges and Elections will take that action. It seems to me, after the statements which have been made and now that this gentleman comes forward and desires a thorough investigation, that it ought to be accorded to him. Indeed, it is due to the country as well as in justification of himself.

Mr. HOAR. I suppose that course will probably be taken. I have had no opportunity to consult the committee on the subject. Let the matter be referred to the committee, and I shall probably make such a motion.

Mr. CARLISLE. I think the Senator from Maryland has misunderstood the suggestion made by the writer of this communication. It

is not that his conduct shall be investigated and that other witnesses shall be called, but simply that he shall go before the committee himself and make a statement as to his official conduct. I suggest to the Senator from Maryland that that would not be satisfactory to the Senate or to the country, and if this gentleman's official conduct is to be investigated at all it should be investigated in the usual way, so that witnesses may be heard on both sides. The committee will not be content, therefore, nor would the Senate, in taking the *ex parte* testimony of Mr. Davenport and basing a report upon that.

Mr. HOAR. Of course any person accustomed to judicial or legislative proceedings, who having a charge made against him and offering to submit himself to the fullest investigation and examination under oath, would understand that if that took place any other testimony bearing on the subject would also be admitted.

Mr. CARLISLE. As I understand it, if the investigation is no broader in scope than such a resolution, the committee would have no power to take any testimony except the statement of Mr. Davenport himself, and it was in that view that I made the suggestion.

Mr. HOAR. There is no resolution before the Senate except that of the Senator from Alabama, to which there is no objection, making a certain inquiry of the Secretary of the Treasury. This is a mere letter of this gentleman which was read for the information of the Senate. Unquestionably whenever a resolution shall be drawn under it, it will be drawn in a proper manner. I presume the Senator from Kentucky does not suppose that any Senator would expect to ask the Senate to have an investigation, to which only one witness should be admissible, or that anybody who asks, under a charge made against him of official misconduct, that he may be examined and submitted to oath, would suppose for a moment that the proceeding which he offers himself will be confined to his own testimony.

Mr. CARLISLE. I do not know what the writer of the communication supposed. My remark was based upon what the communication actually contains, and that is simply a proposition that he alone shall be allowed to go before the committee and make his statement.

Mr. HOAR. There is not any resolution on the subject. The Senator is mistaken.

Mr. CARLISLE. I did not speak of a resolution; I spoke of the communication.

Mr. HOAR. The Senator first spoke of a resolution, as I understood him. If he did not, then I heard him incorrectly.

Mr. CARLISLE. When I first took the floor I spoke of a resolution, which I supposed was to be introduced hereafter. What I say now is in response to the statement made by the Senator from Massachusetts that he supposes no public official would think that he could be allowed to go before a committee and make his statement without having other testimony heard also. I say in response to that that my remarks were based upon what is actually contained in the communication, which is simply that he asks that he may go before the committee and make his statement, without a suggestion, direct or indirect, that any other testimony shall be heard.

The VICE PRESIDENT. The communication will be referred to the Committee on Privileges and Elections, if there be no objection. The question is on agreeing to the resolution. The resolution will be considered as agreed to, if there is no objection. The Chair hears none, and it is agreed to.

GREEN AND BARREN RIVERS BRIDGE.

Mr. VEST. I am authorized by the Committee on Commerce to report favorably with certain amendments the bill (S. 4561) authorizing the Bowling Green and Northern Railroad Company to bridge Green and Barren Rivers.

Mr. CARLISLE. I am advised that there is a necessity for the immediate passage of this bill and I should like to have the consent of the Senate to dispose of it at this time.

The VICE PRESIDENT. Is there objection?

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was, in section 1, line 9, after the word "company," to insert "and approved by the Secretary of War;" so as to make the section read:

That it shall be lawful for the Bowling Green and Northern Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Kentucky, to build or cause to be built a bridge across Green River at a point near the mouth of Bear Creek; also one across Barren River near Graham's Landing, or at such other points as may be selected by the said railroad company and approved by the Secretary of War, and to lay on or over said bridge or bridges railway tracks, for the more perfect connection of the railway tracks they may hereafter build, to the points to be selected for crossing said rivers.

The amendment was agreed to.

The next amendment was, in section 2, line 4, after the word "such," to insert the words "bridge or;" so as to read:

Provided, That, if any such bridge or bridges shall be built with unbroken and continuous spans, the spans thereof over and above the channels of said river or rivers shall not be less than 200 feet in length in the clear.

The amendment was agreed to.

The next amendment was, in section 2, line 12, after the word "and," to insert:

If any such bridge is constructed as a low bridge, it shall have such clear height and be provided with draw openings of such width and at such locations as shall be prescribed by the Secretary of War.

The amendment was agreed to.

The next amendment was, in section 3, line 8, after the word "bridges," to insert "and approaches;" in line 9, after the word "mile," to insert "paid;" in line 11, before the word "postal," to strike out the article "a;" and in line 12, before the word "without," to strike out the word "lines" and insert "purposes," and after the word "bridges," at the end of line 12, to insert "and approaches;" so as to read:

SEC. 3. That any bridge or bridges authorized to be constructed under this act shall be lawful structures, and shall be recognized and known as post routes, and they shall enjoy all the rights and privileges of other post roads in the United States, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, the munitions of war of the United States, or for through passengers or freight passing over said bridge or bridges and approaches, than the rate per mile paid for the transportation over the railroads leading to said bridge or bridges; and the United States shall have the right of way for postal-telegraph and telephone purposes without charge therefor across said bridge or bridges and approaches.

The amendment was agreed to.

The next amendment was, in the same section, line 20, after the words "location, the," to strike out "topography of" and insert "high and low water lines upon;" in line 21, after the word "rivers," to strike out "the shore lines at high and low water;" in line 23, after the word "stages," to strike out the word "and" and insert "of the water with;" in line 24, after the word "stream," to insert the word "and;" after the word "bridges," at the end of line 24, insert "such map to be sufficiently in detail to enable the Secretary of War to judge of the proper location of said bridge;" in line 27, after the word "bridge," to strike out "or" and insert "and;" and in line 30, after the word "construction," to insert "or after completion;" so as to make the clause read:

Said bridge or bridges shall be built and located under and subject to such regulations for the security of navigation as the Secretary of War shall prescribe; and to secure that object the said company or corporation shall submit to the Secretary of War, for his examination and approval, a design and drawings of the bridge or bridges, and a map of the location or locations, giving, for the space of 1 mile above and 1 mile below the proposed location or locations, the high and low water lines upon the banks of the river or rivers, the direction and strength of the current at all stages of the water, with the soundings, accurately showing the bed of the stream and the location of any other bridge or bridges, such map to be sufficiently in detail to enable the Secretary of War to judge of the proper location of said bridge, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plan and location of the bridge or bridges are approved by the Secretary of War the bridge or bridges shall not be built, and should any change be made in the plan of said bridge or bridges during the progress of construction or after completion such changes shall be subject to the approval of the Secretary of War.

The amendment was agreed to.

The next amendment was, in section 4, line 5, after the word "whenever," to strike out "Congress shall decide that;" so as to read: "whenever the public interest requires it."

Mr. EDMUNDS. Let the whole of that section be read, Mr. President.

The VICE PRESIDENT. The section will be read as proposed to be amended.

The Chief Clerk read as follows:

SEC. 4. That the right to alter, amend, or repeal this act is hereby expressly reserved, and the right to require any changes in said structure, or its entire removal, at the expense of the owners thereof, or the corporation or persons controlling the same, whenever the public interest requires it, is also expressly reserved.

The amendment was agreed to.

The next amendment of the Committee on Commerce was, to add as a new section the following:

SEC. 5. That on any bridge or bridges constructed under the provisions of this act there shall be maintained at the expense of the company or corporation owning or controlling the same such lights and other signals as may be prescribed by the Lighthouse Board.

The amendment was agreed to.

The next amendment was to add as a new section the following:

SEC. 6. That this act shall be null and void if actual construction of the bridges herein authorized be not commenced within one year and completed within three years from the date hereof.

The amendment was agreed to.

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

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

CREDENTIALS.

Mr. MORGAN presented the credentials of JAMES L. PUGH, chosen by the Legislature of Alabama a Senator from that State for the term of six years beginning March 4, 1891; which were read, and ordered to be filed.

ABRIDGMENT OF SUFFRAGE.

The VICE PRESIDENT. Is there further morning business? If not, that order is closed, and the Calendar under Rule VIII is in order.

Mr. DOLPH. I inquire what has become of the resolution intro-

duced by myself and discussed during the morning hour a few days ago.

The VICE PRESIDENT. The Chair understands that it is subject to call. The Senator from Alabama [Mr. MORGAN] is entitled to the floor on it when it is brought before the Senate.

Mr. DOLPH. If there is no further morning business, I ask that that resolution be taken up.

Mr. MORGAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Alabama rise to morning business?

Mr. MORGAN. No, sir. I rose to speak to the resolution of the Senator from Oregon.

Mr. DOLPH. I understand that the Senator from Alabama desires to discuss this resolution. I now call it up.

The VICE PRESIDENT. The Chair will lay before the Senate the resolution of the Senator from Oregon, which will be read.

The Chief Clerk read the resolution submitted by Mr. DOLPH December 10, 1890, as follows:

Resolved, That the Committee on Privileges and Elections be, and they are hereby, directed to inquire and report to the Senate without delay whether the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof is denied to any of the male inhabitants of any State, being twenty-one years of age and citizens of the United States, or in any way abridged except for participation in rebellion or other crime.

The VICE PRESIDENT. The amendment proposed by the Senator from Missouri [Mr. VEST] will be read.

The Chief Clerk read the amendment of Mr. VEST; which was to add to the resolution the following:

And that the committee also inquire and report whether by State legislation any citizen of the United States has been denied the right to work on any public improvement of any State by reason of his color.

Mr. MORGAN. Mr. President, the resolution of the Senator from Oregon relates to the fourteenth amendment to the Constitution of the United States. The first clause of the first section of that amendment reads as follows:

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

A question arose under that clause of the fourteenth amendment and went before the Supreme Court of the United States and before the Committee on the Judiciary of this body, as to whether an Indian was a person "born or naturalized in the United States and subject to the jurisdiction thereof," and whether as such he became a citizen of the United States, and it was held and it has been uniformly held by all the jurists who have given any utterances upon this subject that the fourteenth amendment in that provision and in fact in all the other provisions related to the negro race; that it was not intended to apply to Indians or Chinamen or any other persons who might be in the United States, but to those persons of color who belonged to the African family or were of African descent; and the fifteenth amendment absolutely prohibits——

Mr. DOLPH. Who held that?

Mr. MORGAN. It has been held by the Supreme Court and it has been held also by the Committee on the Judiciary of this body on two occasions.

Mr. EDMUNDS. I think not, if the Senator will pardon me. I do not remember any such report.

Mr. MORGAN. Mr. Carpenter made the report from the Committee on the Judiciary.

Mr. EDMUNDS. I should like to see it.

Mr. MORGAN. The Senator has seen it in times past, and I did not think it necessary to help out his memory. I did not think it necessary to come here prepared with citations of matter as publicly known as that is.

Mr. EDMUNDS. I wish to say that I have no recollection of any report of the Committee on the Judiciary, either before or since I became a member of it, which held to the doctrine that the fourteenth amendment applied only to persons of African descent. I think we all hold and have always thought that undoubtedly the leading motive for creating the fourteenth amendment was the condition of things affecting the African race; but that was motive. The purpose, however, as distinguished from motive, was to make the charter of national and State rights broad enough for everybody who was a citizen of the United States.

Mr. MORGAN. I do not say that the Committee on the Judiciary held that this amendment applied exclusively and only to negroes, but I say they did hold that the Indian, who is an American citizen and native born and a man of color, was not included in the language of the first clause of this fourteenth article of amendment. Now, if there is any reason for excluding any Indian from it, I am unable to comprehend exactly what it is unless it be that the amendment was intended to apply to a particular class of persons who were not Indians—that is to say, to the negroes; and that was decided in several cases in the Supreme Court of the United States, that this amendment was intended to apply to the negroes.

Mr. DOLPH. The Senator is speaking of the first section of the fourteenth amendment?

Mr. MORGAN. That is what I am speaking of, but it is to be construed *in pari materia*. Of course it was all adopted at the same time and ratified by the States as one amendment. Therefore the construction of it is to be uniform, and that is the true construction.

Section 1 of the fifteenth amendment provides:

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

It has been held in various cases that where there was any obstruction by a single individual or by a conspiracy or combination or mob of individuals within a State to deprive a negro of his right to vote, when that conspiracy was against the law of the State and punished by the law of the State as much as by the United States laws, the first clause of the fifteenth amendment did not apply to it. It applies only to that action of the State government which is hostile to the right of the negro to vote, on account of his race, color, or previous condition of servitude.

The fact then is to be determined, not by a reference to the practice of individuals or by reference to a practice even of the officers of a State government, for practices of the officers of a State government in contravention of its own statutes can not be considered as conduct to which the State is committed in any way whatever or by which the State is compromised in the least degree. So, then, in order to ascertain what action has been taken which would be included within the purview of the Senator's inquiry, as proposed, by the Committee on Privileges and Elections, we have only to refer and we can only refer to the constitutional and statutory laws of the various States to see whether or not by the constitution and laws of those States the right of suffrage has been abridged.

The fourteenth amendment was considered at the time of its adoption to be a sufficient guaranty for the security of the negro vote; that is to say, the fourteenth amendment, passed three years before the fifteenth amendment, provided so as to leave it within the power of the States of this Union to deprive a negro of suffrage if they chose to do so, but in doing so they would lose from the basis of apportionment the number of votes thus stricken out by the action of the State authority.

Mr. President, this would have been a happy and prosperous country, comparatively, if the fourteenth amendment had been allowed to stand just as it was without any addition thereto, any supplementary action on the part of Congress or of the States. But after the matter had got into that shape the politicians of the country were aroused to the consciousness that the negro was to be a very convenient puppet in elections. They could use him and move him back and forth upon the political chessboard at their own will and pleasure. They discovered, after they passed the fourteenth amendment and it had remained upon the Constitution book for a time, that the negro was after all a slave. Though emancipated by the thirteenth amendment, he remained a slave. They found that he was the same man in the United States with the shackles knocked off him that he was in Africa before the shackles had been put on him, that his nature had not been changed, that he had a slavish regard for the white man and would follow his lead and obey his command, it did not make any difference where you might find him in the world.

It makes no difference to-day where you find him, he has the same instinctive idea, for slavery is as much the common law of Africa and of all African tribes as freedom and liberty is the common law of the United States and of England and of all English-speaking peoples. We did not create, we did not make either the man or the idea, but it is so, and it has developed itself throughout all history, and will continue more and more to develop itself in spite of all that we can do. There is a governing power amongst the tribes of Africa, and the superior men in those tribes never fail to invoke the law of slavery for the purpose of keeping their subordinates in place and getting out of them all the good they can for the benefit of the general population. They never fail to do that.

But if it had been left to the States of this Union to determine, each State for itself, who should vote, the State losing from its basis of representation the number of black men, or the number of Indians, or the number of any others that might be stricken out except for crime, we should have found the States of the South and of the East, the West and the North, engaged actively to-day in the naturalization and preparation of the recently emancipated negroes for the duties and powers and rights and privileges and obligations of citizenship. They would have gone straight along and the political parties in the different States would have found it convenient and necessary to take up the more enlightened and the better parts of these communities and to bring them in by a process either of naturalization or of examination or otherwise, admitting them to the full rights of citizenship as they had become qualified therefor, and then the rest of them, seeing that good conduct was a recommendation to the authorities by whom they were surrounded and of whom they were a part for their advancement and progress in political power, would have been stimulated to very different action from that which has taken place when they have been taken

up *en masse* and without respect to their intelligence or their virtue, and without discrimination at all between the higher and the lower grades of the negro family; they have all been dumped into the political power of the country for the purpose of giving to politicians the advantage of that slavery of spirit by which they knew and have known all the time and still know that they can control them at their will and pleasure.

The negro is a grateful man. He is a good man. He has many qualities that are very excellent. He is not a wise man; he is not an inventive man. He has never built a ship to sail to any foreign country; he has never discovered a star and located it and measured it in the planetary system. He has never attempted to reach, so far as I understand it, into the more hidden or recondite branches of science or even of art; and it is very seldom that he has attempted it even in mechanics. He is a man to be led and educated; but he is docile and kindhearted. He loves to improve, he loves to learn, and can be led to almost any degree through the operation either of fear or of his affections, either way.

The politicians of the United States, after the fourteenth amendment had been adopted, discovered an opened door to enormous power by controlling the negro politically, and hence they went on and proposed the fifteenth amendment and went as far as they could in that to prescribe that the States of the Union, instead of being permitted to do what they had the right to do under the fourteenth amendment, which was then three years old, should not be permitted to strike out a negro's ballot on account of his race, color, or previous condition of servitude, but that he should be received into the body politic and have all the rights of citizenship, including the right of voting, which the Constitution of the United States never conferred on a white man. There is no feature of the Constitution of the United States that confers on a white man the right to vote. You can not trace the right of suffrage of a white man back to the Constitution of the United States and locate it for its origin in that instrument; but the right of a negro to vote you can trace distinctively to the fifteenth amendment of the Constitution. It is guarantied to him there as against the hostile action of any State, and, the States being the origin of the right of suffrage, the regulators of the qualifications of suffrage, that part of the fifteenth amendment which bears upon this question not only touches the negro's right to vote, but secures it to him, and he has an absolute and positive constitutional guaranty of his right of suffrage which no white man in the United States can claim.

So the negro has been lifted far above us, above the whole white race in the United States, above the Indian race and all other races, and secured thereby his right to vote.

Mr. HOAR. Would it be disagreeable to the Senator from Alabama if I were to ask him to permit me to point out what I think is a slight error in the statement he has made?

Mr. MORGAN. I shall be very glad to hear it.

Mr. HOAR. The Senator says that the fifteenth amendment—I do not now propose to discuss the purposes which the Senator attributes to the framers of that amendment—gave to the negro the right of suffrage, in substance; I do not use his exact phrase. I do not so understand it. I understand that the fifteenth amendment simply declares that, while the States are to be permitted to determine the qualifications which entitle a man to suffrage, a negro shall not be deprived of it if he has the qualification which would induce the individual State to bestow it upon a white man. That is all that you may make in your State or we may make in ours, that any State may declare the qualifications of suffrage and make them as strict as it pleases, so that the form of Government be republican. The States may have a very limited suffrage; but when they come to say that certain qualities or qualifications entitle a white man to vote they shall not be permitted to say to the colored man who has exactly the same qualifications that he shall not vote. That is the whole of it, as I understand it.

Mr. MORGAN. I suppose the Senator from Massachusetts will not deny that the State of Alabama has a right to put into her laws and her Constitution this provision that "no man of Chinese descent shall vote in this State." I suppose that will not be denied.

Mr. HOAR. I do not understand that it can if he is a citizen; but he is not a citizen——

Mr. MORGAN. The citizenship has nothing to do with the right to vote unless the State makes that one of the qualifications. The Supreme Court of the United States has settled that neither a national citizenship nor State citizenship has anything to do with the right to vote.

Mr. HOAR. The fourteenth amendment deals with discrimination with regard to citizens of the United States. The case which the Senator puts is that Alabama might discriminate by reason of race in the case of persons not citizens of the United States.

Mr. MORGAN. Yes or if they are citizens of either. They might have been naturalized in Massachusetts, as Chinamen have been naturalized there, and migrated to Alabama, and, notwithstanding that they had been naturalized and were entitled to all the benefits and privileges of citizenship under their Massachusetts naturalization, when they come to Alabama, if they encounter a constitutional provision of this kind, that no Chinaman or descendant of any Chinaman shall vote in Alabama, that would be a constitutional right; but if we were to put in a provision that no man of African descent shall vote we should find ourselves confronted by the Constitution of the United States, which says they shall vote against all the power of the State to abridge their right to vote on account of race, color, or previous condition of servitude. That presents a fair comparison of the operation of this principle. Hence I say the right to vote is given to the negro by the Constitution of the United States in such a sense that it can not be ridden down by a State constitution or State laws on the ground of race, color, or previous condition of servitude.

Mr. HOAR. I suppose the Senator from Alabama did not mean to say what I thought I understood him to say, that a Chinaman had a Massachusetts naturalization. He meant only that the place where the Chinaman was admitted to citizenship under the United States laws, if admitted at all, was in Massachusetts.

Mr. MORGAN. That is what I meant.

Mr. HOAR. Of course if that be true I do not agree with the Senator from Alabama in thinking that if under a statute of the United States a man of Chinese descent was lawfully naturalized (supposing the law processes to have accomplished that result) it would be in the power of any State to exclude him from suffrage by reason of his descent, he possessing all the qualities and qualifications for suffrage which are required of a white citizen. This amendment would protect him.

Mr. MORGAN. It would be a very unfortunate state of affairs if the right of suffrage in any State was connected with the right of naturalization of the citizen.

Mr. HOAR. Let me test the Senator's proposition further.

Mr. MORGAN. I prefer now, if you will allow me, to answer you a little. I do not want you to take the floor all the time while I am speaking.

Mr. HOAR. I should like to ask of the Senator if he claims, take for instance a Spaniard, who is certainly a colored person, that any State could exclude a man, otherwise qualified from suffrage, by reason of his Spanish descent. If not the Senator's statement about the colored people does not apply.

Mr. MORGAN. I do not see any reason why they could not. I do not know of any prohibition upon the States to do that when they have the right to declare who shall vote and who shall not vote. They can exclude women and they may exclude Spaniards, they exclude Chinamen, and, but for the fifteenth amendment, they could exclude negroes. The negro is the only person in the world that they can not exclude; and it is made incumbent upon the States by the Constitution of the United States that the States shall not exclude them, and therefore I infer—no, I do not infer, but I conclude, that the negro is the man who is placed by the Constitution of the United States in an attitude of superiority over the white man in the United States in regard to his right to vote, certainly over a Chinaman, or an Indian, or a woman, or anybody else.

This was the predicate for the statement that the resolution of the Senator from Oregon, when it is addressed to the question of negro suffrage, has no field of operation. There is nothing to be done, and, while I know the Senator does not mean it, the effect of it would be a more gratuitous waking up of this negro question.

The Senator in his discussion of this matter the other day evinced some sensibility in respect to the situation of the State of Oregon towards the negroes. We need not try to disguise it from ourselves that a negro is no more welcome in the State of Oregon than he is in Alabama, so far as race instincts and peculiarities are concerned; that he is not wanted in Oregon as a citizen at all, and that there are certain rights withheld from him in Oregon, as there are in many of the Northern States, as in Pennsylvania and other States, which belong to him in other States of the American Union and which belong to him in the District of Columbia.

We need not undertake to deny to ourselves, or in the face of the American people, that they and we are affected in a serious way by the differences between the races; whether we choose to call it a prejudice or whatever name we choose to give it, aversion or repugnance, that feeling exists; and while we are legislating we must legislate with reference to it. We can not discard it from our thoughts or from the influences or the motives of our legislation. We must legislate in respect of it and try to make the best accommodation that we can of this oppugnance of the races in the United States.

The VICE PRESIDENT. The hour of 11 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which is House bill No. 11045.

UNITED STATES ELECTIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 11045) to amend and supplement the election laws of the United States, and to provide for the more efficient enforcement of such laws, and for other purposes.

Mr. MORGAN. Mr. President, the adjournment yesterday evening interrupted me in the course of a statement and argument that I was trying to make, and which I shall endeavor not to repeat this morning, assuming that Senators who did me the honor to listen to

what I had to say apprehended the point that I was trying to present and enforce.

The general proposition contained in the amendment of the Senator from South Carolina [Mr. BUTLER] is that this bill shall express on its face the opinion of the Senate of the United States and its purpose that the powers of the United States canvassers shall be considered and construed or declared to be judicial or else that they are ministerial. I pointed out yesterday evening that this distinction was a very important one to the individuals who might be concerned in a contest for a seat in the House of Representatives, in which there were $416 and some cents involved in the controversy every month of the nine between the 4th day of March and the 1st day of December, the period elapsing between the expiration of an old Congress and the coming in of a new one. That is a pretty large sum of money, Mr. President, and would usually amount to something like $4,000. Four thousand dollars is a very considerable sum of money to be earned in nine months by anybody, particularly when it comes in free of cost and without taxation, and it is a very handy and convenient sum of money to have.

Now, we need not pass laws in the United States in regard to great offices with the idea that fraud and villainy will not be attempted to be perpetrated in securing them. If there is any one fact that is believed by the American people, which is more discreditable and disgraceful to the history of this country than all the other facts connected with public affairs, it is the fact, as they believe it at least, that the great offices of the United States, including the Presidency, are sometimes bought and sold in the market. The legislation of Congress should address itself to that opinion or that prejudice, if you please to call it so, or that misinterpretation of the facts, and should undertake to remove all opportunity, as far as we are able to do so, from the functionaries who are to become the electors, or the certifiers, of elections, to corrupt their conduct and to send up false information or false certificates of election. If there is any one thing that the American people seem to desire more than another, it is the enforcement, so far as Congress is able to do such a thing, of that part of our Lord's Prayer which says "Lead us not into temptation." As to delivering us from evil, of course that is something we have to get out of when it occurs, sometimes in very desperate ways. But we certainly can in the enactment of our laws keep out of them any inducement or temptation to crime and fraud.

Mr. President, I am not going to take "Johnnie Davenport" for my text, nor any other named commissioner of the United States, and yet in sweeping around the horizon I can see those all through the country in various directions who have been gibbeted before the world by reports of committees of the House of Representatives and the Senate, gentlemen of the highest character, who, after a long examination of sworn testimony, have made their reports in regard to the supervisors of elections and the marshals and deputy marshals who have had a hand in these matters. The record as thus generally presented, the details of which I do not propose now to investigate, shows the existence of conditions of fraud and villainy such as would disgrace any set of people on this earth if it is to be tolerated and re-enacted and new opportunities are to be given for its performance by the very same men and by the same instrumentalities which have been so thoroughly condemned and so exposed by the action of the committees of these two Houses, as being perverse and fraudulent and villainous in every possible sense of the word.

If by this bill those instrumentalities are to be picked and culled from amongst the American people to-day—the very men thus gibbeted in the estimation of the world and kept in office by it and continued in office by it during the whole term of their lives—and if the courts that have now the power to remove them from office are, under this bill, denied that power and are compelled to keep them without any inquiry into their conduct or any power of impeachment, then, Mr. President, instead of invoking the principle of the Lord's prayer, "Lead us not into temptation," we seem to walk right into its way; we take up the villainous scheme which has been thus exposed, and we crystallize it into law, and we give to it the force and effect of the approval of the Congress of the United States, and men are thus legislated into office, into office for life, and into office from which they can not be removed by any power of the United States, that this Senate in its secret sessions would not confirm to any office whatever.

Mr. EVARTS. Will the Senator allow me to ask a question?

Mr. MORGAN. Certainly.

Mr. EVARTS. I ask the Senator on what proposition in the bill he bases the opinion that these are life offices. The situation is this: The supervisor can only be a person who holds the office of commissioner. A commissioner is removable at the pleasure of the judges. The only provision, therefore, in the bill that gives any duration to the supervisorship is that while he remains a commissioner he shall remain a supervisor, and a change shall not be made if he behaves himself properly. Certainly it is not desirable that there should be any life office of this nature, and it is a misconstruction, I think, of the bill that such an impression has got abroad.

Mr. FAULKNER. I should like to ask the Senator from Alabama whether there is any provision of the bill other than simply that the selection of the chief supervisor shall be from the commissioners of the court, and whether it requires that he shall continue to be a commissioner during the entire time of his service as chief supervisor? If so, I have not found it.

Mr. MORGAN. The chief supervisors are to be selected, except those now in office, from the commissioners of the circuit courts of the United States. That is the first element in their qualification for this double office which is imposed upon them by the election laws, and which, in its spirit in that respect, is contrary to the Constitution of the United States.

Mr. CARLISLE. Will the Senator allow me to make a suggestion?

Mr. MORGAN. If I can just get through with this point I think I can make it plain, if the Senators will excuse me. These men who are in office hold their offices in virtue of the fact that they have been appointed, first, by a circuit judge of the United States as commissioner and, secondly, that they have been appointed in addition as chief supervisors in the respective Congressional districts. Those are the two qualifications to office, and the whole of them. They are now in office. The judge has the power to remove them, but nobody else has that power. They can not be impeached by the House of Representatives and removed by the Senate, for they are not of that class of constitutional officers over whom this body has jurisdiction to hear and try and determine their guilt. They can not be removed by the President, for the President has no jurisdiction over them, and so it has been held frequently. They can to-day be only removed by the circuit judges of the United States, or rather the circuit courts of the United States. Now, this bill reads as follows:

> And each such chief supervisor of elections and each chief supervisor of elections now in office and not disqualified or removed by the provisions of this act shall, so long as faithful and capable, hold such office and perform and discharge the duties imposed upon him by any law of the United States.

As to the Chief Justice of the Supreme Court of the United States and the associate justices, the Constitution requires that they shall hold their office during good behovior; but when we come to these chief supervisors of elections, good behavior has nothing to do with it. When a man holds an office during good behavior there is some power remaining somewhere to determine whether his behavior is good or bad, and to remove him if it is bad; but, industriously, this bill of "Johnnie Davenport," drawn for "Johnnie Davenport" and by "Johnnie Davenport," contains a provision that he shall not hold his office during good behavior at all.

How long shall he hold it? As long as he is faithful and capable. Faithful to what? Faithful to you, gentlemen; faithful to the party that puts him in power; faithful to the hand that wields it as a sword against the people. He stays for life, and shall stay for life, says the bill, and you shall not remove him; although now the circuit judge has the right to remove him as a commissioner and would therefore have the right to break him of the office of chief supervisor, you shall not remove him from office, but he shall remain there, the circuit judge of the United States to the contrary notwithstanding, bad behavior to the contrary notwithstanding. The law confirms him personally and specially, just as much as if he was named in it as the chief supervisor of the southern district of New York, as it does all the rest; and you might just as well write his name in the paper and say, "Mr. Davenport, you shall stay there as long as you are faithful and capable."

Mr. EVARTS. Then I understand, if the Senator will allow me, it turns upon his opinion that a supervisor would continue in office, although he was removed from the office of commissioner. That is not my construction of the bill; but, if it is the proper construction of the bill, it ought to be modified.

Mr. MORGAN. I am perfectly willing that the Senator from New York shall construe this bill to suit himself and I am very much gratified to know that there is not 1 per cent. of the people of the United States who will construe it as he does. For instance, the Senator, the other day, in the discussion of this case, boldly proclaimed in the Senate of the United States that a Senator or member of the House of Representatives was an officer of the United States Government. He boldly proclaimed it. It did not appear in his printed remarks, but he said it, nevertheless.

After that declaration and after the construction put here upon it, the Senator is entirely welcome to have his own opinion about this matter, as I am, he says, to have my own; but when we come to appeal to the common sense of the people of the United States and we lay that language before them, there will not be 1 per cent. of the people of this country who will construe it as the Senator from New York does. It is logically and in every sense incapable of such construction, for it says:

> And each such chief supervisor of elections and each chief supervisor of elections now in office and not disqualified or removed by the provisions of this act shall, so long as he is faithful and capable, hold such office and perform and discharge the duties imposed upon him by any law of the United States.

Now, speaking of this matter in a very general way, not going into the details of it, those are the men who are to prepare all the record upon which the board of United States canvassers are to act. Whether the board of United States canvassers act ministerially or whether they act judicially does not make any difference in respect to the matter that I am just now referring to. This bill is one of the most careful and particular measures ever penned for the purpose of making

the statements, the certificates, the reports, the letters, the telegrams, and whatever else is found to be in writing and in any respect connected with the history of an election of a member of Congress to go upon the record, become a matter of record in the office of the chief supervisor. He is provided at Government expense with a room properly fitted up for the purpose of keeping his archives, his records, and then he has a seal of office, and he has clerks and so on under his control. It is a bureau of elections created by the Congress of the United States in the respective districts.

They are declared to be officers of the United States Government, officers who keep seals and keep records, and the like of that. The seal of an officer of the United States Government when affixed to a certificate, to a paper, imports verity; otherwise there would be no reason for putting the seal there. There is no use of putting a piece of beeswax covered with a piece of tinted paper and tied with a ribbon string to a certificate or to a paper that is certified if that piece of beeswax, that biscuit, does not amount to anything. It is intended by this bill to be a verifier; it is intended to be one of the testes; it is intended to be a subscribing witness to the verity of the paper.

The United States supervisor in chief and also the other supervisors for districts and places smaller than districts prepare their statements in respect to what has taken place at an election, and they certify it, and attach the seal to it, and thus certified and sealed it goes up to the board of canvassers, and when it gets there it means just as much as the transcript of the record of judgment of a Federal court would mean so far as its verity is concerned; otherwise that seal does not amount to anything.

Now, here is $4,000 at stake upon the result and here are your supervisors. Here are men like the supervisor of the southern district of Alabama, who had been a tide waiter at the customhouse for years, poor inferior men, who would willingly take a $700 salary for a year and consider themselves rich to get it. I could name various others, but it is not necessary to do it. Four thousand dollars is up and the doors are closed and the supervisor is making up his certificates, to which he does not have to swear. He fixes up the papers and he seals them; and the gentleman who wants the certificate of the board of canvass, who will act upon this evidence sent up by the supervisor, says to him: "Here, let us divide this pot. Here is $4,000; you take $2,000 of it and I will take $2,000, and we will both be better off than we ever expected to be in the world. I was a candidate for Congress just for the sake of getting a chance at you. I wanted the secrecy of this United States proceeding. I wanted a chance to put this testimony in such shape as would suit me when it went before the board of canvassers. I wanted an opportunity to avoid the stare and gaze of the people of Alabama and of all its officials upon my conduct. I am not responsible to them. You are not responsible to them. You are a stranger, a carpetbagger, a man without character, Mr. Supervisor. Great power has been lodged in your hands by the laws of the United States. I am a political adventurer. I am here for the purpose of trying to get some money into my pocket, and through your instrumentality I think I can easily do it. I am one of that class of men who have run for Congress, time and again, in the States, for the purpose of making a contest with the man who is really elected, and when I come up to Washington City the Congress of the United States will pay me for contesting. It is a very nice job for me. It is a better one than I can get anywhere else.

"Now, here is $4,000 coming to me from the 4th of March until the 4th of January, or the 4th of February, or the 4th of March again. Here is $4,000 coming to me; let us take it and divide it. Suppose the people of Alabama, do object to it; what are they to us or we to them? What law have you got that can punish us? Suppose they turn us out of society; they turn us out of a position that we never were in. Suppose that in doing this we earn the contempt of all honest men; we have again earned something that we have already got. Suppose we are tabooed from society for this; we can stick our hands in our pockets and go to some country where it is quite convenient to have $2,000 and a bad character."

Mr. President, in this arrangement we open the door to this sort of peculation and fraud; we open it wide and guard it well, and we make no provision by which it can be prevented or punished. We leave fraud to walk in at an open door on the invitation of the Congress of the United States to accept bribes that we furnish out of the Treasury of the United States by declaring that the certificate to be issued by the board of canvassers shall be final and conclusive evidence of the man's right, under section 31 of the Revised Statutes of the United States, to draw $416.33 a month out of the Treasury of the country, and before we can get to them, before we can reach them, they have got $4,000 out of the Treasury and can decamp if they choose to do so, and each will be just $2,000 richer.

I say that that is an unfortunate affair, and I want to know, I want some member of this committee to tell me, I want the chairman or somebody else to rise in his place, inasmuch as they have made no written report here, and answer the question whether these canvassers constituting the United States board of canvassers, these three men, are judges or are they merely ministerial officers. That question will be asked by the first court that has to decide a controversy under this law. Why not answer it now? Why say that we will leave it to the proper construction of the text of the law without any declaration on our part either in the bill or on the floor of the Senate as to whether this is a judicial office or a ministerial office? Does it make no difference?

Mr. President, a judge is always excused for his errors of judgment, it makes no difference how flagrant they are. Unless you can show that a judge has been positively corrupted you can take no exception to his action upon the ground that it is apparently unjust or fraudulent, whereas a ministerial officer, not panoplied with the ermine and secure against assaults from outside men, can be held to his accountability by anybody interested, in any court of the country. When you make proof against him he has got to come up and answer, not by parading the sanctity of his office, but by showing the facts of the case.

Suppose that a member elected and certified to Congress by the governor of Alabama should find himself ridden down and driven out by a certificate issued by the board of United States supervisors in his district and that he should have every reason to believe, though he might not have any positive evidence of the fact, that the supervisor in that district, the chief supervisor, the under supervisor, and the board of canvassers who are to pronounce upon his title were each and all of them not only corrupt but corrupted. Suppose he were to bring an action based upon this state of facts: that he was a candidate for Congress, was elected, in fact, by the voters, but the canvassing board, in the exercise of their office, chose to hold that he was not elected. "In consequence of that decision you have taken $4,000 of my money that the Government of the United States owed me and was ready to pay me under other circumstances and conditions. You have turned it over to a man who said that he was opposing me in the election. This has been an unjust, unlawful, and fraudulent act on your part. It has been so unjust and so fraudulent that it stinks in the nostrils of the whole country and every man in the country believes that you have been guilty. I can not prove the combination between you and this other man; I can not prove even that the money has been divided between you. I am not in possession of the facts to demonstrate these positive allegations of fraud against you, but I want you to come before a court. I want to put you on the stand as a witness; I want to put your colleague or your coconspirator on the stand as a witness. I believe that by a careful examination of you I can demonstrate to a jury of Alabama men that you have given a corrupt judgment." The chief supervisor wraps himself in the mantle of his office and says, "I am a judge; you can not do it." "But are you not also a ministerial officer?" "In some respects perhaps I am, but not in the matter of judgment. You can not do it; the law is against you. You can not question the right of a judge to make his judgment, to act judicially, and when he does act judicially and you can not prove that it was fraudulent in fact your doom is scaled, it makes no difference what has taken place."

Now, the Supreme Court of the United States have had a question of that sort in the case of South and others *vs.* The State of Maryland, use of Pottle. That was an action brought in the State of Maryland upon a sheriff's bond. The plaintiff in the action alleged that on a certain occasion when he had about $2,000 in his possession, I believe, a mob of violent people got after him and robbed him of his money and otherwise injured and maltreated him severely. He said that the sheriff of the county, who was a peace officer and who had the right to suppress riots and insurrections, and whose duty it was to keep the peace, was standing by at the time and he did not interfere to prevent this thing; he did not summon the *posse comitatus;* he did not arrest the parties or do anything. So he brought his action in one of the Maryland courts before Judge Glenn, district judge, to recover, and he did recover in the Maryland courts the damages he claimed, showing thereby that the action was founded upon a case of strong merit on its facts. The case came up by writ of error from the circuit court of the United States for the State of Maryland, and I read from 18th Howard, 396:

It was an action brought in the name of the State of Maryland by Pottle upon a sheriff's bond given by South, with the other plaintiffs in error as sureties. Under the instructions of the court below, the verdict and judgment were for the plaintiff. Being brought to this court by writ of error, it was argued at a former term, and was ordered to be reargued, and the following questions suggested for discussion:

1. Whether or not the declaration contains a clause of action entitling the plaintiff (Pottle) to recover against the sheriff and his sureties within the condition of the official bond, according to the laws of the State of Maryland.

2. Whether or not the sheriff, as conservator of the public peace, is liable to a civil action for an injury to the person or property of an individual, from a riotous assembly or mob, according to any law of the State of Maryland, if it should appear said sheriff unreasonably omitted or neglected to exert his authority or suppress it.

3. Whether or not the sheriff, as conservator of the public peace, is liable to the plaintiff in an execution, attending personally upon the levy or sale under it, for an injury to his person or property from a riotous assembly or mob, according to any law of the State of Maryland, if it should appear that said sheriff unreasonably omitted or neglected to exert his authority to suppress it.

4. Whether or not, on the case last stated, the sheriff would be liable to the plaintiff in the execution if he desisted in good faith from the exertion of his authority at the instance and request of said plaintiff while in the hands of the mob from an apprehension of greater bodily injury if an effort should be made to suppress it.

Those were the four questions that were submitted to the court on the reargument.

Mr. Justice Grier delivered the opinion of the court.

In this case a verdict was rendered for the plaintiff in the court below, and the defendant moved, in arrest of judgment, "that the matters set out in the declaration of the plaintiff are not sufficient, in law, to support the action." If it be found that the court erred in overruling this motion and in entering judgment on the verdict, a consideration of the other points raised on the trial will be unnecessary.

He goes on then to state about what the breach was upon the sheriff's bond, that the sheriff was present and that Pottle applied to him for protection against this mob.

This declaration does not charge the sheriff with a breach of his duty in the execution of any writ or process in which Pottle, the real plaintiff in this case, was personally interested, but a neglect or refusal to preserve the public peace, in consequence of which the plaintiff suffered great wrong and injury from the unlawful violence of a mob. It assumes as a postulate that every breach of a public duty subjects the officer to a civil suit by any individual who, in consequence thereof, has suffered loss or injury; and consequently that the sheriff and his sureties are liable to this suit on his bond, because he has not "executed and performed all the duties required of and imposed on him by the laws of the State."

The powers and duties of the sheriff are usually arranged under four distinct classes:

1. In his judicial capacity he formerly held the sheriff's tourn or county courts and performed other functions which need not be enumerated.

2. As king's bailiff he seized to the king's use all escheats, forfeitures, waifs, wrecks, estrays, etc.

3. As conservator of the peace in his county or bailiwick he is the representative of the king or sovereign power of the state for that purpose. He has the care of the county, and, though forbidden by Magna Charta to act as a justice of the peace in trial of criminal cases, he exercises all the authority of that office where the public peace was concerned. He may upon view, without writ or process, commit to prison all persons who break the peace or attempt to break it; he may award process of the peace and bind anyone in recognizance to keep it. He is bound, *ex officio*, to pursue and take all traitors, murderers, felons, and other misdoers and commit them to jail for safe custody. For these purposes he may command the *posse comitatus*, or power of the country, and this summons everyone over the age of fifteen years is bound to obey under pain of fine and imprisonment.

4. In his ministerial capacity he is bound to execute all processes issuing from the courts of justice. He is the keeper of the county jail and answerable for the safe keeping of prisoners. He summons and returns juries, arrests, imprisons, and executes the sentence of the court, etc. (1 Black. Com., 343; 2 Hawk. P. C. C. 8, section 4, etc.)

Now, we see that here was an office in Maryland in which there was a commingling of jurisdictions and powers. Some of them were judicial and some were ministerial. In the United States that can not be done. You can not create an office under the United States Government, parts of which are judicial and parts of which are ministerial, and lodge them in the same person, unless that person is a judge. It is very true that you may annex certain official and ministerial duties to the office of a judge, but in respect to the exercise of any part of the judicial power, the power of final determination of any fact, the power of rendering a judgment between one man and another, the man who exercises that power under the United States Government must be appointed a judge by the President and confirmed by the Senate. In Maryland, however, where sheriffs were elected or might be appointed perhaps by the governor, this arrangement did not prevail. It will not do to argue this case upon the idea that the State may confer a blending of judicial and ministerial powers upon their executive or ministerial officers, for in the United States Government such a thing is simply impossible; and when you send a law to the Supreme Court of the United States that has got that feature in it that law will come back empty and vacant; there will not be anything left of it by the time they get done with it.

I shall not undertake to read the whole opinion, although it is very able. The court go on to say:

The case of Ashby *vs.* White, 2 Lord Raym., 938, has been often quoted to show that a sheriff may be liable to a civil action where he has acted in a judicial rather than a ministerial capacity. This was an action brought by a citizen entitled to vote for member of Parliament, against the sheriff for refusing his vote at an election. Gould, justice, thought the action would not lie, because the sheriff acted as a judge; Powis, because though not strictly a judge, he acted quasi-judicially. But Holt, C. J., decided that the action would lie: 1. Because the plaintiff had a right or privilege. 2. That, by the act of the officer, he was hindered from the enjoyment of it. 3. By the finding of the jury the act was done maliciously.

That is where the fraud came in. That will make any man liable for any judgment he renders. If you can prove that he rendered his judgment maliciously, the judicial ermine does not protect him any longer.

The later cases all concur in the doctrine that where the officer is held liable to a civil action for acts not simply ministerial the plaintiff must allege and prove each of these propositions.

He has got to show that it was done maliciously if he expects to get at a judge and secure a recovery.

The declaration in the case before us is clearly not within the principles of these decisions. It alleges no special individual right, privilege, or franchise in the plaintiff from the enjoyment of which he has been restrained or hindered by the malicious act of the sheriff, nor does it charge him with any misfeasance or nonfeasance in his ministerial capacity in the execution of any process in which the plaintiff was concerned. Consequently we are of opinion that the declaration sets forth no sufficient cause of action.

The judgment of the circuit court is therefore reversed.

Now, there is a case where a man had the judicial authority to keep the peace, and where, in virtue of his office of sheriff, it was in his power to render judgment, and he did render judgment then and there being present as to whether his ministerial powers should be called into exercise. He decided against Mr. Pottle on that occasion. He decided that it was not necessary to call them into exercise; and, notwithstanding Mr. Pottle recovered a judgment against him in the courts of Maryland for that decision under which he declined or omitted to protect him, when it came to the Supreme Court of the United States they reversed it and dismissed the cause upon the ground that even the little judicial power which the sheriff of a county had, which was drawn down by thin tradition from far-distant periods of British history, was enough to protect him against an action for damages when he stood by and saw one of his fellow-citizens almost massacred by a mob, that man being a plaintiff in execution to sell some property and being there to see to the sale under which he was to get his money on his debt, and the mob being the friends of the defendant in the execution.

Now, is there not some necessity for some definition in this bill as to whether this board of canvassers are ministerial officers and open to action for their unlawful conduct or whether they are judicial officers and are panoplied and ensconced behind bulwarks of protection against an action for damages when they mistake the law and deprive a man of $416 a month for ten or twelve months in a year? You must go on, I suppose, in order to get rid of that judgment, and even that will not get rid of the certificate and show that the scoundrel had a bribe from this man who was a candidate for Congress. He put up the record so that the board of canvassers could not reverse the case; he did it in the secrecy and privacy of his own office, and unless under such circumstances you can go on and actually show that he did receive the money, not merely does the certificate stand, not merely does the $416 a month go from the pocket of the rightful owner to the unjust thief, but the certificate sent into the House of Representatives of the American Congress presents this man there as the holder of conclusive evidence of his right and title to the highest dignity but one, if there is one higher than that, which was ever conferred upon mortal man by a vote of the people.

Mr. EVARTS. Will the Senator allow me to ask a question without entering into this discussion?

Mr. MORGAN. Certainly.

Mr. EVARTS. What is the method now by which this inconvenience is regulated that he speaks of in the interval between the entering into the relation of Representative from the 4th of March and the 1st of December?

Mr. MORGAN. I have always supposed, since I have been in the Senate and before, that, if there was any distinction between members on this floor, those honorable gentlemen who have had the distinction of representing the State of New York might consider themselves as rather in a state of supremacy over the rest of us, for they represent millions where we represent thousands, both in population and in wealth, and their State is known throughout the civilized world as well as in the United States as a grand State. It therefore surprises me when a Senator from that State arises and asks the question, how are the methods now regulated?

Why, sir, for a hundred years the State of New York has, by the free consent of the other sovereign States of this Union and under the Constitution of the United States, through her governor always sent a certificate of election to both Houses of the Congress of the United States, without objection or demur on the part of anybody, without a question that the State of New York as a Commonwealth had, according to her ancient dignity and splendid renown, done all that could be done by human power in the exercise of civil justice to purify the elections and give an honest certificate. The Senator holds a commission from the governor of the State. Suppose instead of that he held the commission of John I. Davenport as a Senator here; would he consider himself as much entitled to hold a seat among his peers upon a certificate of that kind as he would if the great State of New York, after canvassing his claims and the methods of his election and of the men who elected him, had given him that proud testimonial of character, than which no prouder was ever held by a Roman senator?

Surely not. Is there no comparison? Is there a parallel between a certificate issued by a board of canvassers of United States officers, three of them appointed upon the application of a supervisor by a United States district judge, to go and examine the records made up to suit the occasion and pass judgment and render a certificate—is there a comparison between the sanctity, the security, the dignity of such a certificate as that and one that comes up to the Congress of the United States, whether to the House of Representatives or the Senate, through all the channels of authority of a great and soverign State, and is finally avouched by the signature of the governor and the seal of the State, such as I had the honor to have read to-day from the desk? Yet the Senator from New York asks me a question of that kind. That old and venerable State has a Senator here who has not respect enough for her to understand the difference between a certificate issued by a John I. Davenport canvassing board and a certificate issued by the sovereign authority of the great State of New York. That is the situation.

Mr. EVARTS. The only question I put to the Senator was how the matter of right arising in the interval between the 4th day of March and the 1st day of December was now disposed of. That was all that I asked him, and it had reference to the case he supposed, as I understand.

Mr. MORGAN. I did not suppose that the Senator's question re-

lated to the tithing of mint and cummin. I thought he was alluding to weightier matters of law.

Mr. EVARTS. But you had not talked about anything but the tithing of mint and cummin. It was the salary of $416 a month that you were talking about.

Mr. MORGAN. The Senator seems to be willing to make just such an argument as that. I said nothing about that except *arguendo*. I said it was a case where fraud was possible and invited; and, as the distinguished Senator has never before here within my knowledge refused to give an opinion when it was called for under circumstances of right, I want the honorable Senator to tell me whether in his opinion this board of canvassers is a judicial board or a ministerial board.

Mr. EVARTS. Very well; that I will do; but I should like to have this matter first attended to.

Mr. MORGAN. Let us get that and then we shall have something to talk about.

Mr. EVARTS. The Senator was talking about nothing else but the deprivation of personal rights to salary between the 4th of March and the 1st of December.

Mr. MORGAN. Oh, I was illustrating my argument with that.

Mr. EVARTS. That is what you were talking about.

Mr. MORGAN. I was not talking about that; I was illustrating the argument, and I was talking about the principle involved in the matter.

Mr. EVARTS. You were illustrating with that?

Mr. MORGAN. That is what I was doing.

Mr. EVARTS. You were not talking, but illustrating?

Mr. MORGAN. That is what I was doing.

Mr. EVARTS. Now, I took that for an inconvenience, as everybody must see, that a possession of the salary should be accompanied without a determination of right, it resting of course with the House of Representatives to say what the right is, and I only asked what the situation now was, and then I am in the first place complimented and then censured for my ignorance. That is not the point.

Mr. MORGAN. The Senator will allow me to say that his ignorance, if he has any, consists only in what he has forgotten, for he has through the course of his life known all things.

Mr. EVARTS. That may be. We will not talk about that any further, nor illustrate that any further. The canvassing board of a State that disposes of the apparent right of a Representative is an action of precisely the same kind with that which is accorded to these supervisors of election. I am willing that there shall be any range of debate as to the question of the State's officers being better to be trusted than those of the United States; but it certainly does not help our controversy here to disguise the fact that the same opportunity of fraudulent canvass and fraudulent certification exists under the State laws, and that the governor comes in, not as a canvasser, not as a determining authority, but simply with a certificate of what has been done by a canvassing board. Therefore the title to the $416 a month during the interval between the 4th of March and the 1st of December is subject to this same corrupt measure of ascertainment that is accorded, as the Senator thinks, to the supervisor; and now he wishes me to answer a general question, which is a moot question and nothing but a moot question.

If Senators on the other side wish to ascertain and define the power of this board of supervisors in the canvass and certificate, so as to reduce it, if it now bears the impression of judicial function, down to ministerial, that I can understand; but what benefit is there in a provision introduced into the bill that in the opinion of Congress this is a ministerial and not a judicial or that it is a judicial and not a ministerial office? What has that to do in determining it when by the traits and force and character of the section it is to be judged and not from a statement that it is either judicial or ministerial? Beyond that, it certainly is a ministerial office in the sense that it is not of judicial power or authority, and, second, it is ministerial, involving in its exercise, as all ministerial functions are exercised, the power of judgment and discretion within the authority accorded by the act. If I give an opinion that that is ministerial or that it is judicial, it is but a moot opinion. The traits and qualities show what the function is. The Senator is quite as familiar as I am with the instances in all the courts of determining that this or that function is a ministerial function. But yet it is clothed with such degree of discretion and choice, that is, choice according to the conditions of the law, as will prevent the issuing of a mandamus.

Mr. MORGAN. Yet there is an expressed provision in this bill for a mandamus. The Senator from New York says that the discretion given to them is of such character, not exactly judicial, and I suppose he will say in the language of the Senator from Wisconsin and other eminent lawyers that it is quasi-judicial, as it can not be controlled by a mandamus; and yet in this bill there is an express provision for a mandamus.

I was going to point that out. Yesterday evening I referred to the fact that the circuit court of the United States had the power of mandamus in but one other case, that is, in regard to the Union Pacific Railroad Company. The Supreme Court of the United States has the general power of mandamus over inferior jurisdictions. That means inferior courts holding judicial station and having judicial power. The Supreme Court of the United States would not issue a mandamus to a United States commissioner, because he can not render a judgment. But the Supreme Court of the United States will issue a mandamus to the Court of Claims, to the courts here in the District of Columbia, to the Territorial courts, to the district courts of the United States, or the circuits of the United States. Now, why will they do that? It is because these are judicial tribunals.

Why, then, is there a provision in this bill for a mandamus? It is because, contrary to the views the Senator from New York has expressed here to-day, the committee who framed this bill consider this board of canvassers to be a judicial board, and therefore they must subject their decisions to a mandamus.

Now, where do we stand? I do not want any other answer to it but the last remark of the Senator from New York, after the question that he put to me about whether the State certificate was likely to be a better or more honest certificate than that of the supervisors, which if I should stop to answer at as great length as the question occupied I am afraid this bill would be indefinitely postponed.

That branch of the question is a very simple one to my mind. I do not know any people in the United States who are more interested in taking care of themselves than the people of the different States and the different localities in the States. I do not know any set of men who are more competent to take care of themselves than these people. I do not know any set of men who are less satisfied to have overseers placed over them than these people, or who need them less, either in their religious affairs, their social affairs, their political affairs, their voting affairs, or their business affairs. But there are some people in the United States, in some of the States, who do not consider that the rest of the world have any right to regulate themselves at all except under the conduct and control of overseers. They must have overseers about everything, and especially about the elections.

Now we come and after a fashion, which I say is more liable to corruption than any other scheme ever presented in the form of legislation to the Congress of the United States, we get here overseers over the ballot box, scrutinizers, examiners, challengers, inspectors, and all that over the ballot box. That means to say to the people, "You are not competent to take care of yourselves. You either have not got the sense or the moral honesty to do it; and we will go out and pick up these jail birds," read off from the book on yesterday by the Senator from North Carolina, out of the speech of Mr. Eaton, who took it from the New York World. "We will take up those filthy jail birds, those miserable creatures, and from them we will select the supervisors over this vast community, and we will put you beneath their scrutiny and inspection and their power of challenge and all else, of interruption and arrest. We will put you beneath all their powers merely because we do not believe that the people of the State of New York have the moral virtue and the moral courage to do right in the matter of elections."

Now, if they have not got it how did the Senator from New York get his credentials here? Are they honest or dishonest? I have no doubt about their being honest, but John I. Davenport had not anything to do with them. John I. Davenport did not superintend the election of any member of the Legislature, either in the house or senate of New York, who voted for the Senator from New York. He is here with clean hands; but if he had come here from John I. Davenport's board of supervisors or board of canvassers, while I would not doubt anything in the world that connected itself with the Senator from New York personally, I would have very serious qualms about whether he had not got in through the wrong door, like the man who got into the sheepfold the wrong way, but he got in all the same.

Mr. EVARTS. That would be personal to Davenport, and not to me.

Mr. MORGAN. I suppose the Senator might assume so, inasmuch as Davenport is a great public character and luminary, promoting great election measures, the draught of bills here that contain sections upon sections of the most recondite, hidden, and inexplicable law that we ever tried to expound or understand. I think I have a right to refer to him not merely as one of the most prominent men in the great party that I supposed the Senator from New York led until I found that John I. Davenport led it, but also a man of such consequence and power and influence in this country that since 1872 he has been looked upon as the savior and the redeemer of the Republican party. So, in speaking of him I would speak as I would of Andrew Johnson or any other man who might be prominent in the history of the country.

Now, we have come down to this, that the bill declares that the canvassers are judicial officers. The Senator from New York declares that the canvassers are ministerial officers. In order to get rid of this difficulty we had better put in some language here to show what we mean by the words and phrases and provisions which are contained in the bill. There is no use to leave this matter in the dark. There is no necessity for concealment about it. There is enough of trick, concealment, and misleading statement in this bill to stain the Senate of the United States after it has passed for a century. Do not let us put any more in it, but let us clean it out. This bill was never drawn by any man who had the honor of the Senate of the United States in his keeping. It could not have been. It contains more provisions (which I will point out when I get time; I have not time this morning) which

are in conflict with each other and hard to be understood in sentences and words, and there are a multitude of words in it, than I have ever seen assembled under type on the same amount of paper. I never saw the like of it and nobody else ever did.

Now, Mr. President, I shall close what I have to say this morning upon this proposition with a brief statement of the situation of this question. After the votes are cast in the box the supervisors make a box canvas, a poll canvass, a canvass at the time and place of the voting. At the same time the inspectors make a canvass and they compare their canvasses with each other. The differences, if any, are noted by the supervisors in writing. The difference in regard to the rejection of a ticket is noted in writing partly upon the ticket and partly upon the report, the tabulated statement. All the facts that the supervisors or either of them wish to send out to the chief supervisor are made a matter of record. They are written out in full and in the English language. They are then certified to. They are sealed up in envelopes in duplicate and one copy is sent to the clerk of the United States circuit court. Another copy is sent to the chief supervisor. The copy in the clerk's office remains sealed up. The copy in the supervisor's office is immediately opened and examined by him, but by nobody else, and thereupon he publishes the result.

So far we have got a record made up, and, in order that the record may be perfectly exact, where tickets of different descriptions are voted in the ballot box sample tickets are taken out and pasted on this return, so that the chief supervisor and the board of canvassers may see a sample of the tickets that have been voted. They take tickets from the box, notwithstanding the law of the State requires them to remain there for the very best of purposes. They take from the box, violate the law of the State or disregard it, and put them into these papers, paste them on these returns, and send them up, one envelope to the circuit clerk's office and the other to the chief supervisor's office, and the chief supervisor opens the record that comes to him. Thereupon he tabulates the statements sent to him, that is to say, he sits down and takes all the memoranda, all the certificates, all the papers, all the reports, the tickets, and all that which have come to him, and he tabulates a statement and sends that up to the board of canvassers for the State, for that board of canvassers were appointed on the application of fifty men, if you please, that being the root of the subject from which this great tree has sprung up.

The board of canvassers for the State consists of three persons. What have they to guide them in their "determination," as the word is used in one place, and in making their certificate, and in the other matters which they must do and decide? What have they got to guide them? The tabulated statement and the record sent up and certified to the chief supervisor. They examine that, if they choose to do it. Not on the motion of the supervisor in chief, nor on the motion of any voter, nor on the motion of any candidate can this thing be compelled, but if they choose to do it they may send out for witnesses. What kind of witnesses? They must take the supervisors of the United States who were present at the election. Why not call in the inspectors, the State officers? They are called inspectors in this bill. Why not examine both sides? If the inspectors have made a different return from the supervisors why not put the inspectors in there and let them testify before that court? It is because they want to confine the evidence to the authority of the United States. They do not intend that these indecent people of the States, these miserable and fraudulent creatures, who build up State governments and elect governors and send Senators to Congress, ever shall have anything to do with ballots or with counting or considering the canvass of the votes, but it shall be done by the United States officers.

This bill provides the board of canvassers will therefore take the supervisors as the only witnesses. They may come in and they will examine them in regard to discrepancies and let them account for them if they can. They decide it. They issue a certificate. There is a revision of an inferior tribunal, ministerial it may be, but ministerial it really is not as far as the work of the canvassers is concerned. There is a review by a tribunal that is not ministerial, but judicial, for two things flow from it. First, a certificate that the Clerk of the House of Representatives must record and that must stand as the muniment of title in favor of the party alleged to be elected in that certificate; and, second, the absolute nullification of the certificate that may be issued by the governor of the State in pursuance of the report made to him by the inspectors of election who were present at the same time the supervisors were and participated in the count of that election, for when that certificate of the board of canvassers gets to the House of Representatives the law which is made a part of this enactment compels the Clerk to put that man's name upon the roll and compels the officers of the Government to pay him his salary just as if he were actually elected; and he must be kept there until the House otherwise decides, whether the time is longer or whether it is shorter.

If the House of Representatives turns him out at the end of a controversy and seats the other man, from what time does the other man's right to his seat begin? From what time does the certificate from the State governor take effect? You have declared, by what you claim is the supreme law of the land, that the certificate issued by the board of canvassers shall conclusively prove the title to the office until the House overrules it; and when does the other man's title begin? Not until the House has overruled it. It does not go back by relation, otherwise it would repeal your law. It commences from the very moment that the House overrules it. You might vote that man pay, but if you did it would be a gratuity. If after finding that he was entitled to his seat in the House of Representatives you would vote him pay, it would be a mere gratuity, that would be all; his right and his title to the salary have been interrupted by a fraud or by a false finding of the board of canvassers.

The Clerk of the House of Representatives has not any right to make a record of two certificates for the House to judge between. He must make a record of one, and but one, and that is the certificate sent up by the supervisors. It does not make any difference how fraudulent it may be, it is a muniment that stands.

Mr. President, upon this record any decision which adjudges the fact of a man's right to that certificate is a judicial decision. It can not be ministerial. No ministerial officer has ever yet been permitted to decide a question of right and property between man and man under the Government of the United States, either in State or in Federal authority. He can not do it. We can not confer this power.

As to the power of Congress to control officers of the State government even in matters of election, I will grant you, for the sake of this argument, just as broad a construction as you want of this supposed authority to control the qualification of voters and the inspection of voters and votes, and the return of votes, and adjudications upon votes running for months after the election. I will give you a full swing at the question by my admission, for the sake of the argument, that you are right upon all these propositions. Yet an officer of the State is an officer of the State, not of the United States. By declaring him an officer of the United States you can not make him such. He can not have the same functions as a State officer and as a United States officer. That is one of the cases in which a man can not serve two masters. An officer of the State government is a man who has been chosen and intrusted with certain official power for the convenience and benefit of the State or its people, and the United States Government has no right to take control of that man and use him for its own purpose while he holds the State office.

It may be done *sub modo;* it may be done by acquiescence. It has been done sometimes in that way; but when you come to the question of right and power as you present it in this bill, legislating expressly and positively that the State officers shall do such and such things and they shall be amenable to penalties if they refuse or fail to do them, you violate the Constitution of the United States as it is declared by the Supreme Court of the United States, and that violation of the Constitution occurs in three or four different instances in this bill.

I do not propose to stop to discuss constitutional questions in this debate, but I do propose to show how far the Supreme Court of the United States have gone in denying to the Congress of the United States the power to coerce an officer of a State into the execution of duties imposed by the laws of Congress upon him. The celebrated case of the Commonweath of Kentucky *vs.* Dennison, governor, is the one to which I refer and upon which I stand in regard to this matter. That case has never been shaken nor overruled in anywise since it was delivered and printed in 24th Howard's Reports.

Mr. SPOONER. What is the case?

Mr. MORGAN. It is the case of the Commonwealth of Kentucky *vs.* Dennison, governor, a question of extradition. I will read the syllabus of this case in order to put the Senate in possession of the general outline of it, and then I shall read a little from the decision of the court pertaining to the particular point that I have in hand now:

1. In a suit between two States this court has original jurisdiction, without any further act of Congress regulating the mode and form in which it shall be exercised.

2. A suit by or against a governor of a State, as such, in his official character, is a suit by or against the State.

3. A writ of mandamus does not issue in virtue of any prerogative power, and, in modern practice, is nothing more than an ordinary action at law in cases where it is the appropriate remedy.

4. The words "treason, felony, or other crime," in the second clause of the second section of the fourth article of the Constitution of the United States, include every offense forbidden and made punishable by the laws of the State where the offense is committed.

5. It was the duty of the executive authority of Ohio, upon the demand made by the governor of Kentucky and the production of the indictment, duly certified, to cause Lago to be delivered up to the agent of the governor of Kentucky who was appointed to demand and receive him.

6. The duty of the governor of Ohio was merely ministerial, and he had no right to exercise any discretionary power as to the nature or character of the crime charged in the indictment.

7. The word "duty" in the act of 1793 means the moral obligation of the State to perform the compact in the Constitution, when Congress had, by that act, regulated the mode in which the duty was to be performed.

8. But Congress can not coerce a State officer, as such, to perform any duty by act of Congress. The State officer may perform it if he thinks proper, and it may be a moral duty to perform it. But if he refuses no law of Congress can compel him.

9. The governor of Ohio can not, through the judiciary or any other department of the General Government, be compelled to deliver up Lago; and, upon that ground only, this motion for a mandamus was overruled.

Now, I will read, after having got the Senate in possession of the general outline of that case——

Mr. GRAY. What is that case?

Mr. MORGAN. That is the case of the Commonwealth of Kentucky vs. Dennison. Chief Justice Taney delivered the opinion of the court:

The question which remains to be examined is a grave and important one.

I read this because it is better than I can state it, more concise, clearer, and more forcibly stated than I could do it.

When the demand was made the proofs required by the act of 1793 to support it were exhibited to the governor of Ohio, duly certified and authenticated; and the objection made to the validity of the indictment is altogether untenable. Kentucky has an undoubted right to regulate the forms of pleading and process in her own courts, in criminal as well as civil cases, and it is not bound to conform to those of any other State. And whether the charge against Lago is legally and sufficiently laid in this indictment according to the laws of Kentucky is a judicial question to be decided by the courts of the State and not by the executive authority of the State of Ohio.

The demand being thus made, the act of Congress declares that "it shall be the duty of the executive authority of the State" to cause the fugitive to be arrested and secured, and delivered to the agent of the demanding State.

In this bill that I am discussing frequent mention is made of the duty of State officers, and it is declared that the State officers shall do thus and so, and shall not do thus and so, and shall be punishable if they do thus and so, and be punishable if they fail to do thus and so, according to the provisions of the bill in several different places.

The words—

This is the act of Congress from which the Chief Justice here is quoting—

The words "it shall be the duty," in ordinary legislation, imply the assertion of the power to command and to coerce obedience. But, looking to the subject-matter of this law and the relations which the United States and the several States bear to each other, the court is of opinion the words "it shall be the duty" were not used as mandatory and compulsory, but as declaratory of the moral duty which this compact created when Congress had provided the mode of carrying it into execution. The act does not provide any means to compel the execution of this duty nor inflict any punishment for neglect or refusal on the part of the executive of the State; nor is there any clause or provision in the Constitution which arms the Government of the United States with this power.

Indeed, such a power would place every State under the control and dominion of the General Government, even in the administration of its internal concerns and reserved rights. And we think it clear that the Federal Government, under the Constitution, has no power to impose on a State officer, as such, any duty whatever, and compel him to perform it; for if it possessed this power it might overload the officer with duties which would fill up all his time and disable him from performing his obligations to the State, and might impose on him duties of a character incompatible with the rank and dignity to which he was elevated by the State.

It is true that Congress may authorize a particular State officer to perform a particular duty, but if he declines to do so it does not follow that he may be coerced or punished for his refusal. And we are very far from supposing that in using this word "duty" the statesmen who framed and passed the law or the President who approved and signed it intended to exercise a coercive power over State officers not warranted by the Constitution. But, the General Government having in that law fulfilled the duty devolved upon it by prescribing the proof and mode of authentication upon which the State authorities were bound to deliver the fugitive, the word "duty" in the law points to the obligation on the State to carry it into execution.

It is true that in the early days of the Government Congress relied with confidence upon the co-operation and support of the States when exercising the legitimate powers of the General Government, and were accustomed to receive it upon principles of comity and from a sense of mutual and common interest, where no such duty was imposed by the Constitution.

I can not, Mr. President, refrain from saying just here in regard to that action in the State of New York in an election there, where Mr. Whitney, the Senator from New York [Mr. EVARTS], and other gentlemen were associated as a committee, a board of arbitration, and where they controlled the election and brought out of it what Mr. Cox in his report asserts was the best and purest election ever held in a great State in history. I think he said—I can not forbear from mentioning the fact—that in order to reach that result these wise gentlemen, including the Senator from New York, had to consent amongst themselves to retire the law of the United States from the arena and its chief minister, John Davenport, from his high official powers, and that when an arrest was made and carried before Davenport he did not dare to render a decision until he had first submitted the case to the board of arbitrators and had taken their opinion.

The State of New York had tried these Federal election laws. It had tried Davenport, the great and sublime and just and pure chief justice of returning boards and elections. For years together the United States had spent hundreds of thousands of dollars out of their Treasury in trying to purify the people of New York so that they could give a decent vote for a member of Congress, and they had failed, it appeared, through Davenport's assistance and agency, and thereupon both sides agreed that they would call in the assistance of the really noble men of New York, like the Senator who sits before me [Mr. EVARTS] and Mr. Whitney and others, and would organize a board of arbitration; and out of that board came all these fine results, not because the law of the United States and its ministers were there to assist in the matter, but because being there to assist and take charge of it they were retired from their positions, disarmed of their power, judicial and otherwise, relegated to the rear, and the true citizenship of New York came forward and took hold of the elections. That is the situation.

The court proceeds:

As in these cases the co-operation of the States was a matter of comity which the several sovereignties extended to one another for their mutual benefit, it was not regarded by either party as an obligation imposed by the Constitution. And the acts of Congress conferring the jurisdiction merely give the power to the State tribunals, but do not purport to regard it as a duty, and they leave it to the States to exercise it or not as might best comport with their own sense of justice and their own interest and convenience.

But the language of the act of 1793 is very different. It does not purport to give authority to the State executive to arrest and deliver the fugitive, but requires it to be done, and the language of the law implies an absolute obligation which the State authority is bound to perform. And when it speaks of the duty of the governor it evidently points to the duty imposed by the Constitution in the clause we are now considering. The performance of this duty, however, is left to depend on the fidelity of the State executive to the compact entered into with the other States when it adopted the Constitution of the United States and became a member of the Union. It was so left by the Constitution, and necessarily so left by the act of 1793.

And it would seem that when the Constitution was framed and when this law was passed it was confidently believed that a sense of justice and of mutual interest would insure a faithful execution of this constitutional provision by the executive of every State, for every State had an equal interest in the execution of a compact absolutely essential to their peace and well-being in their internal concerns as well as members of the Union. Hence the use of the words ordinarily employed when an undoubted obligation is required to be performed, "it shall be his duty."

But if the governor of Ohio refuses to discharge this duty there is no power delegated to the General Government, either through the judicial department or any other department, to use any coercive means to compel him.

Now, that is as far as I care to go in this debate at this time upon this particular proposition offered by the Senator from South Carolina by way of amendment.

Reference is made in this opinion to an apprehension that there might be at some day realized in the United States a very disagreeable situation. The Supreme Court seemed to take a rather melancholy view of it in advance, for I dare say they saw that the time was approaching when this thing might be realized.

When the Constitution of the United States took up the subject of the judicial power of this Government and undertook to limit and define it, it placed more power within the reach of the judiciary than had ever existed in the judicial tribunals of any government in the world. Neither the Jewish Sanhedrim, which was partly a judicial and partly a legislative body, nor the House of Lords of England, which was also in part a legislative and in part a judicial body, had the power to assert that any bill which was passed, any law which was enacted, was contrary to any fundamental constitution, creed, or law or doctrine established amongst their people, and for the first time in the history of the world power was given to the Supreme Court of the United States, and through the Supreme Court of the United States down to the very lowest magistrate in the land, whether of the State or of the Federal judiciary, to declare that an act of Congress was unconstitutional and void.

That appeared to be a sort of peculiarity in our Government which startled the civilized world, and great men on both sides of the question engaged in its discussion with the most earnest zeal and inquiry, and certainly with the gravest apprehensions. But the power was lodged in the Supreme Court of the United States, in the judicial establishment. In order to preserve that great power and all the other powers which belong to the judicial establishment, the framers of the Constitution carved out this power, set it apart, set it like a jewel in the Constitution apart from everything else. It was not made a part of anything else. It was the supreme power of adjudication upon rights of individuals, and also between States, and upon and over the acts of the legislative and the acts of the executive departments, so far as they were not purely political.

Of course it was contemplated that the men who should occupy judicial station in the United States should be very pure because they were very powerful, and, inasmuch as they were none of them elective and were not responsible to the people, very stringent guards were thrown around them, so that they should not reach out their arms of power beyond the limits or the jurisdiction of the courts, and so that no other department should presume to interfere with them in the execution of their decrees, and so that every other department of the Government should be in a sense subordinate to them in the matter of furnishing them all the necessary supplies of men and arms and material and money to execute their decrees. We therefore made the real judiciary, the men who hold office as judges, whether of the Supreme Court or of any inferior court, properly so called, officers by life tenure or during good behavior, and we made it necessary that they should be nominated by the President of the United States and confirmed by the Senate before they could hold office and execute judicial power.

Mr. President, I know that the same interest does not exist in respect of any other department of this Government to keep it separated from all control of political affairs. You carry a case by appeal before the Supreme Court of the United States, and if they find that that question is one of a political character, and to be solved by the political departments, they will have nothing to do with it; they will reject the appeal, and will not consider it, because it is a question which does not come within their jurisdiction. What have elections to do with anything else than political matters, and why do we find a circuit judge of the United States invested with the power of controlling the political destinies of this country either upon a petition invoking his original jurisdiction, if you please to call it such, on a writ of mandamus, or upon an appeal controlling the political agencies of the Government, which are to find their power and influence in one of the Houses of Congress?

Now, let us see, Mr. President; is there any reason in the history of the United States Government why, when the Supreme Court and all

the other courts refuse jurisdiction of questions which are simply political and upon that ground, that we should turn around and confer upon them a political jurisdiction by which they may settle or unsettle the very rights of men to seats who pass upon political questions? What a solecism is that! What an absurdity! What a contradiction! What an absurd shame it is upon the legislative history of the United States that we should do a thing of that kind!

Do we want the judicial officers of the United States to pass upon elections in order to purify them or do we want them to pass upon elections so as to purify the bench? We know, Mr. President, that corruptions will creep in, and they have done so. We know they are beyond the powers of the judiciary; we know that when you take the question out of the hands of the people and run it through this judicial mill, run it through this filtering process for the purpose of purifying, the chances are ten to one that you will corrupt the judge while you are trying to purify the voter.

Can any man deny in the United States Government to-day, after the eight-by-seven vote and after all the other things we have seen done in this Government—will any man deny to his consciousness the fact that a judge when he puts on the ermine still remains a Democrat or still remains a Republican and that wherever he has an opportunity without the violation of his oath he will throw all of his influence in favor of the party to which he belongs?

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. MORGAN. Yes.

Mr. SPOONER. Does the Senator think that the trial of cases involving title to offices by such judges has corrupted them? That is a jurisdiction they have exercised from time immemorial by *quo warranto* and otherwise.

Mr. MORGAN. I think it has.

Mr. SPOONER. You think it has?

Mr. MORGAN. I do. I think I have seen in the States some very queer judgments rendered in the matters of elections. They stick to their party through thick and thin. We all know it. There seems to be a sort of hallucination in the minds of the American people on that subject which compels all men, Christian denominations, judges, and lawyers, and doctors, and farmers, and everybody else, to stick to their party through thick and thin. I do not understand and can not account for it. I think it is one of the infirmities of the human family.

Mr. SPOONER. The Senator used the word "corruption."

Mr. MORGAN. I mean judges in the States have the same partiality and bias that others have, and I think this—and I wish now to say it with emphasis and once for all—that when in the United States Constitution and the constitutions of the States the power was reserved to the legislative houses respectively to judge of the elections, returns, and qualifications of their own members, that much of the judicial power thus expressed was separated in each of these instances from the great mass of sovereign judicial power in these different governments and given into the hands of the houses of the legislature for the very purpose of preventing the judiciary from having anything to do with them, for, after you have passed an election through the hands of supervisors and boards of canvassers and given certificates and all that, you still find yourself compelled in this very bill to say that the certificate shall stand good only until the House shall otherwise order.

Here the power goes back to its original source. Here the Constitution comes in—in spite of the gentlemen who would like to crush it and trample it under their feet and to get rid of it—to regulate and control them and their intermediate agencies, and to say to them that the House must decide and final judgment must be in the House. Why so? Because the Constitution separated from the mass of judicial powers in the States and in the United States this one judicial function of deciding absolutely and without appeal upon the membership of the two legislative Houses, and therefore there is not a particle of that power, not a trace of it nor a symptom of it, left anywhere in the hands of the judiciary to be exercised on any occasion.

I have been opposed to permitting the judiciary of the States or of the United States to have anything at all to do with the election of Representatives. It may do in the election of officers whose duties are simply ministerial, but they should have nothing to do with the election of the representatives of the people, for the power has been reserved into the hands of the people themselves through their representatives to make the final judgment, and we can not get rid of it. The House of Representatives can sit down upon our decisions and upon the certificates and upon all that is done and wipe them out as we might sponge a fly-blow from a glass. The House can sponge it out, pay no attention to it, give no reason, express no opinion in favor of the certificate of the canvassing board or the certificate of the governor when they come in collision; the House can wipe it all out and be done with it. No appeal can be taken and no question can be raised after either House has decided.

More than that, you can not confer upon a Clerk of the present Congress the power to dictate to the next Congress when it meets who shall be the enrolled members of that body. Out of the 332 members that meet in the next House of Representatives if 300 of them go there on the day appointed by the Constitution and the law and one of the gentlemen calls the body to order and asks another one to preside, and he does so, and they vote that they are the House of Representatives, and thereupon they elect a Clerk, either to supplant the one that we try to foist upon them or to supply the place of one who has died in the vacation, and instruct the Clerk to make up a roll and in doing it to put the names on that roll of the gentlemen present, and they proceed to elect a Speaker and the other officers according to the Constitution, and proceed to enact laws, there is not a power in this world that can deny their validity and authority.

You can not put side lines upon the next House of Representatives to compel them to organize in your way. They can depart from it without the slightest difficulty. There is nothing to prevent or obstruct them, and all of this legislation merely provokes the next House to put their feet upon it, to trample it out of existence, and say in the sovereign majesty of the people of the United States, "This Constitution makes us a House and we will proceed without reference to what some prior Congress has had to say about it or to provide for us." After all, it comes to that, and all of our puny efforts to get rid of the effect of the Constitution of the United States by bills providing for intermediary proceedings like this at last turn to naught.

Mr. President, if the Clerk of the present House of Representatives should die between the 4th day of March next and the first Monday in December there would be nobody to execute the law, and the first thing the next House would have to do would be to elect a Clerk to declare who the members were. It is just as easy to make the declaration themselves as it is to elect their Clerk. There is no fixed law of organization. The initial point of it is not even started. All that is provided for in this bill will be of no effect unless each successive House of Representatives chooses to adopt what we provide for them.

So, after all, Mr. President, the real and vital question in this matter comes to this, as I said yesterday, whether or not, as to the $416 a month and as to the honor and power that belong to the representative office, the men who make this decision, whether supervisors or canvassing boards, exercise judicial functions or whether they exercise purely ministerial functions; for if their functions are ministerial only they do not conclude anybody; they do not give to the man who gets the $416 a month the right and the power to protect himself against any action that other persons may bring to recover that sum from him.

I have occupied more time upon this collateral question than I intended to do, but I have believed all the time "the pith and marrow" of this bill rested in this main proposition.

Mr. SPOONER. Will the Senator allow me to ask him a question only to get his view?

Mr. MORGAN. Yes, sir.

Mr. SPOONER. I understand of course the force of the Senator's argument as to the expediency of any judicial intervention between the issue of a certificate and the organization of the House; but does the Senator contend that it is not competent to confer upon a court the power to determine preliminarily who is entitled to the certificate?

Mr. MORGAN. I do not say that. I do not say that it is not competent for Congress to confer upon a court the right to say that a man rightfully holds his certificate.

Mr. SPOONER. Or who is entitled to the certificate?

Mr. MORGAN. Or who is entitled to the certificate. I do not say that as between man and man the court can not do it, but I say that an inferior tribunal, not a court, can not do it.

Mr. SPOONER. You are speaking of the returning board?

Mr. MORGAN. That is what I have been speaking upon all the time. I have not attacked the powers of the circuit court of the United States. I believe, however, the powers which this bill requires the circuit court of the United States to exercise are not judicial powers.

Mr. SPOONER. I thought the Senator would say that——

Mr. MORGAN. I believe that I have not argued that.

Mr. SPOONER. I thought the Senator's contention was the one which has been made at times.

Mr. MORGAN. I am perfectly willing in that matter to stand upon the arguments of the Senator from Delaware [Mr. GRAY], the Senator from Virginia [Mr. DANIEL], and other Senators who have argued it. I really thought the argument upon that question had been exhausted.

Mr. SPOONER. I thought the contention of the Senator was one which had been many times made and one which was sustained——

Mr. MORGAN. No; I was speaking of the amendment to the fourteenth section.

Mr. SPOONER. I am speaking of that.

Mr. MORGAN. But that does not refer to the powers of the circuit court. That refers to the powers of supervisors and canvassing boards.

Mr. SPOONER. It was held by one court, the supreme court of a State, that in its regulation as to a Representative in Congress the power given or attempted to be given by the State Legislature to the State court to try the question of the right to a certificate interfered with the constitutional power of the House to judge of the elections, returns, and qualifications of its members. I did not know but that that was the contention which the Senator was making.

Mr. MORGAN. No; I have confined my argument, of course, to the

Federal view of the question, because I think the powers of the States over matters of this kind are very much broader than the limited power of the courts or any other authority organized under the Constitution of the United States.

I will not detain the Senate by any further discussion of this matter now.

Mr. PUGH. I ask leave at this time to present an amendment to the pending bill, that I may have it printed, to be offered when it shall be in order.

The VICE PRESIDENT. The amendment will be received, printed, and ordered to lie on the table.

Mr. MORGAN. Let it be read. I want to hear it.

The VICE PRESIDENT. The proposed amendment will be read.

The CHIEF CLERK. It is proposed to amend the amendment reported by the Committee on Privileges and Elections by adding, at the end of line 30, on page 78, the following:

He must be able to read and write and be of good moral character where he resides, and shall state in his application that he has read the election laws of the United States he petitions to have enforced.

The VICE PRESIDENT. The amendment will be printed and laid on the table.

Mr. KENNA. Mr. President, I have suffered in the last few months something of an impairment of health, from which I hope I have substantially recovered. I feel yet, however, the necessity for the exercise of reasonable prudence. If I proceed, therefore, to make such suggestions as occur to me with reference to the present situation, and more deliberately than usual, thereby in some measure restraining the impetuosity of debate which has characterized this discussion, I trust I may not presume too far on the patience of the Senate.

We are about to witness the final act in the great political drama in which the Republican party has been playing the rôle of star for a quarter of a century.

A true conception of the plot can not be formed by the casual observation of this last forthcoming scene.

The play has been long, but it has paid well. The receipts have been enormous. The great body of its patrons have at times been well-nigh exhausted by the constant drain upon their resources. The poor man has paid as much for his seat in the top gallery or for standing room in the aisles as the millionaire for the glitter and gilt of his private box. But the scene has been shifted as the exigencies of the occasion required, and the band has continued to play.

The lights have successively burned high and burned low. The curtains have risen and fallen. The dazzling glare of electricity has illumined some of the features while others have flitted like ghostly apparitions in the dark. The audience has alternately hissed and applauded. The last preceding scene closed upon a populace loud in its mutterings of universal disgust, and now in this last act the scheme of the actors is to pass its final ordeal.

The *dramatis personæ* have involved a multitude, and elaborate indeed has been the range of the cast. Some beautiful types of human character have been developed. Many of these I have seen and admired and loved. Some of them remain, but most of them have failed to survive to sustain the play, and commoner material has assumed their place. This condition has imposed upon Squeers the moral didactic, while more recent casts have brought into requisition their Pecksniffs and their Slymes. The hero and the hermit, the sinner and the saint, the toady and the tyrant, the victim and the executioner, the scoffer and the scalawag, have all been on the stage.

Some of the figures will appear no more. But in its main features this last exhibition before the footlights and before the headlights also of a vast audience will sufficiently depict the whole combination.

Whether the performance shall end in comedy or tragedy, whether the lights shall go out on a roaring farce or emblazon by their lurid glare the dying agonies of liberty lost, remains to be seen.

Awaiting patiently the enactment of this final culmination, we may devote the *interim*, and not without profit, to a somewhat casual review of the general plot and performance.

Mr. President, in 1865 the Republican party found itself in full possession of this Government. An undeveloped continent spread out before its gaze. In soil, its capacities were without limit; in climate, unrivaled; in territory, it involved an area as broad as the Almighty had vouchsafed to man; in resources, human genius has not yet measured the vast inheritance. The war of the rebellion was over; Lee had surrendered at Appomattox; Johnston likewise had surrendered to the successful armies of the Union, and Kirby Smith with the last relic of the late resistance to national authority had laid down his arms at Shreveport, La.

Mr. Lincoln had indicated so plainly that all history recognized the fact, a determined policy of conciliation and peace. It was not long before the great leader of the Union forces uttered the famous expression, "Let us have peace," which has resounded and will continue to resound down the ages. The Republican party had unhindered control. There was no power to stay their hand. The armies of the Union had retired and re-engaged in the pursuits of peaceful vocation. The armies of the late Confederacy, as far as it was in their power to do so, had imitated this example.

The institutions of this country, from the standpoint of those who were successful in that conflict, had been vindicated before the eyes of the world. I venture to say that in all history, from the first foundation of human government under any form down to this time, no political organization, no potentate, no emperor, no king, no monarch, no ruler or rulers of men, had ever been confronted by so vast an opportunity for permanent and perpetual control of a country as that which confronted the Republican party at the close of the war.

A simple policy of peace, a simple invocation on the part of the masters of the pursuits of useful occupation, a simple adherence to a line of justice, of fairness, and of honesty in this great opportunity, pursued in good faith, maintained "in season and out of season," as the circumstances and conditions invited, would have maintained for that organization a control of this country that would have gone on indefinitely, possibly forever.

It was within only three or four days after the surrender of Lee, Mr. President, that Abraham Lincoln walked the streets of Richmond armed in the presence of that people only by the tender hand of his little boy, whom he led along the public highways. His lamentable taking off seems to have been accepted as a reversal by Providence of the purposes and policies he had generously prescribed. Instead of a course, such as I have suggested, instead of an administration of public affairs which would commend itself to the approval and support of the people, everything was reversed.

The war being over, war was made the order of the day. The Confederacy vanquished, war on the dead Confederacy was the political cry. War on the South, war on her people, war on her commerce, war on her industries, war on her capital, and threatened war on every promised investment in her fair domain, war on her progress, war on her peace, war on her strong hands and her brave hearts, war against the clothes she wore, the bread she ate, the air she breathed, war, political, bitter, unrelenting, partisan war, long after the soldiers of the Union had returned in triumph to their peaceful pursuits.

Mr. President, we are told that, in ancient times, "Parrhasius, a painter of Athens, among those Olynthian captives Philip of Macedon brought home to sell, bought one very old man, and, when he had him at his house, put him to death with extreme torture and torment, the better by his example, to express the pains and passions of his Prometheus, whom he was then about to paint."

Bring me the captive now!
My hands feel skillful, and the shadows lift
From my waked spirit airily and swift,
And I could paint the bow
Upon the bended heavens—around me play
Colors of such divinity to-day.

And so the South was brought forth to the arena of political persecution. There stood this Republican Parrhasius. The fire of hell was in his eye, the demon of discord rankled in his heart.

Ha! Bind him on his back!
Look! As Prometheus in my picture here!
Quick—or he faints! Stand with the cordial near.

And so the South was bound upon her back. The chains of persecution lacerated her limbs; the cords of political bondage fastened her body and harassed her soul. Her States were thrust from the Union. Her stars were blotted from the flag. Her principalities were destroyed. Her strong arm was paralyzed. Her brain and her chivalry were denied their inheritance. Her valleys resounded with the tramp of martial hoof. Her hills were made desolate by the vengeful blast.

I shall not go farther south than my own little State. Look at that in these troublous times. The holding of offices involving the discharge of public functions by those who were educated and accustomed to rule, was denied. No man could hold an office involving in any measure public functions who did not take what in those days and surroundings few fitted men could take, a test oath. I remember very well one county—and I have been informed to-day there were two others—where under the condition which prevailed the people were unable to obtain men who could qualify under the laws to fill the offices provided for the administration of the affairs of the county.

I know that in one county of that State, in the time to which the Senator from Maine [Mr. FRYE] inferentially alludes when he talks about a bayonet for every ballot, there were not to be found enough men of twenty-one years of age who could take the test oath to fill the offices provided by the constitution and statutes of the State for the public administration.

Mr. President, I should certainly not offer myself in illustration of a great subject like this, but when I had returned, in as good faith as any mortal man ever accepted a situation, to my home, impoverished by circumstances over which I had no control, as were thousands around and about me; when I had devoted almost every hour of the daytime and the nighttime to fit myself as well as I possibly could for the pursuit of the profession which I desired to enter; when I had to build my own fire, boil my own meat, bake my own bread, to be able to hold in my hand a certificate that would admit me to the bar, I had to sit in enforced idleness for six long and weary months until the laws which forbade me to earn my bread were wiped from the statute books.

Suitors, men who had legitimate and honest claims against their

neighbors, could not enter the courts of justice to prosecute them to execution and collection. Ay, Mr. President, the young fair maiden of 14 years, in that glorious day when there was a bayonet for every ballot, could not teach a country school of twenty urchins until she had first raised her hands to her Maker and swore that she had never borne arms in the Confederacy. And there the Republican Parrhasius stood.

Now bind him to the rack.

And the carpetbaggers came. I could not practice law. Oh no, but somebody came who could! I know of one instance that came under my own observation during the celebrated régime of one notorious Nathaniel Harrison who was on the bench, where a single man, where one of those vultures so beautifully described in Longfellow's Hiawatha, seeing from afar, had descended, when a single solitary carpetbagger, who was scarcely capable by his own qualifications to institute a suit, carried on a lucrative business in as many as a half dozen courts, using disbarred brain and energy and talent as clerks in his office who did his work for the menial percentage he chose to distribute among them at the end of the performance. And Parrhasius stood by.

Press down the poison'd links into his flesh!

Men were driven from their avocations; men were driven from their homes. Our young men fled from the South as they would have escaped from some plague that infested their country. Go to your cities to-day, to New York, to Philadelphia, to Baltimore, to Cleveland, to Chicago, to Cincinnati, go to the great West, go to your great plains, and there you will find an earnest, an active, an intelligent, and patriotic contribution of the South to the population everywhere, which went flying from the wreck of the homes of its sires in those days of the bayonet with the ballot!

Our fields were surrendered to the bramble; of workshops we had none. And there in the face of desolation this modern Parrhasius stood. The progressive scheme of torture had wrought its hard work, but the colors in the world's great canvas of historic form had not received their last tint.

And tear agape that healing wound afresh.

Then a horde of slaves were placed in mastery of the things they knew not of. Ignorance and vice and crime held sway. General, universal bankruptcy completed the devastations of war.

Take the condition of the Southern States at the time to which I have referred, the time of the bayonet with the ballot. Take it by States, take it by districts, take it by counties, and from the Atlantic to the Rio Grande, from its northern to its southern bounds, there was not an oasis in the great desert of public waste. The New York Herald at that period used the expressions which I shall take the liberty to read:

We do not dwell upon the events that now take place in South Carolina and Mississippi; the riots in Kentucky; the threats of civil war in North Carolina, and feverish movement of the popular heart in Arkansas, for they indicate now what they have indicated at any time since the war. They show that instead of an honest measure of generous and pacific reconstruction we have reduced the conquered States of the South into the condition of Poland and of Ireland. No known section of conquered territory, not the most lawless districts of Westmeath nor the most impatient communes in Alsace, are as disturbed as many of the Southern States. This can not be attributed to the pressure of war, for the war is over, and the harvests have long since enfolded with living verdure the bloody fields.

There was the South under the practices of carpetbag and negro domination. Your Western country was threatened with an influx of Chinese population. Only the Power above us will ever know whether long before this the people of the western slope would not have had precisely, perhaps in a graduated measure, the experiences of the South if Providence had not interposed a Democratic House between that condition of affairs and a Republican veto. It was by the Democracy that the hand was stayed that threatened the destruction of the great West by Chinese immigration. But the South seemed doomed. The Parrhasius of our time stood by and looked on.

How like a mounting devil in the heart
Rules the unreined ambition. Let it once
But play the monarch, and its haughty brow
Glows with a beauty that bewilders thought
And unthrones peace forever.

The world stood aghast. This picture of oppression painted her civilization a thousand years set back.

So—let him writhe! * * *
* * * *
Gods! if I could but paint a dying groan.

By the sorrow of this scene the heart of Christendom was moved. The sun of Heaven looked down softly upon sympathetic earth by day. The moaning breezes were wafted grief-laden among the orange-blossoms and the pines by night. In all the domains of man there was but one heart of stone, one face that paled not. The modern Parrhasius stood cold. The nurtured sneer, born bastard of cupidity and cunning, was in his smile.

Pity thee? So I do!
I pity the dumb victim at the altar—
But does the robed priest for his pity falter?
I'd rack thee though I knew
A thousand lives were perishing in thine—
What were ten thousand to a fame like mine?

Mr. President, I shall pursue the analogy no further. The South is "not dead." As was said of old to the man of palsy, so there was a voice of mercy that spoke unto the South: "Arise, take up thy bed and go unto thine house. And when the multitude saw it they marveled and glorified God which had given such power unto men." The South is not dead. There is no "new South." New conditions have arisen, changes have been wrought which have filled the mouths of friend and foe alike with "the new South!" "The new South!" Sir, there is no "new South."

The old South is there. The old South of our fathers, the old South of the Colonies, the old South of the days of '76, the old South of the Constitution, the old South of "yesterday, to-day, and forever!" The old South that gave to this country her Madison, her Jefferson, her Washington! Not a "new South," not the young sister in her sunny attire, not the bride as she is adorned for the altar, but rather the venerable mother, robed in the garments of purity and of love, of veneration and of honor. It is no "new South," it is the old South that figures in this bill.

Let it be understood now and always that there can be no concession which shall tear from the generations rising up to follow in our footsteps the grandeur of their heritage.

Mr. President, there never has been a day, there never has been an occasion, when the party which had relegated to the rear the policies of Lincoln, when the Republican party has ever confronted the people of the United States in a popular election—national, State, or local—that the people have been permitted to pass judgment upon its expediences and its policies or the merits of its administrations without the invocation of the ghosts of the dead confederacy to give direction or misdirection to their judgment and their purposes. No wonder, then, that in the discussion of this bill the honorable Senator from Maine [Mr. FRYE] should invoke Tammany and the Confederacy.

Never upon any great question, never in any election, never at any time or in any place has the policy of the Republican party with reference to any one of the great questions addressed to its discretion, judgment, and action been willing to confront the people of this free country on the merits of the issue without the invocation of all the passions and prejudices of war to promote its objects and and to achieve its results.

I go further, Mr. President, and I say not simply to this body, but to the intelligent people spread over this continent, that no people on the face of the earth could ever have been brought through this period from the close of the war to the conditions which mark the universal murmurs of discontent now except by the clouding of issues by the contrivances of political passion.

As I stand responsible to my own judgment and my own conscience for the truth, I make these declarations. Take up the record of last year. Suppose we go along in a casual sort of way over the administration of Government for the past few years and see to what extent the statement I now make finds illustration, and easy illustration, in its history.

I presume it will hardly be considered appropriate that in the discussion of this bill the subject of Mormonism should find a place, and yet in what I want to say my suggestions would hardly cover the ground if I failed to call attention to the fact that the issue presented by the rise of polygamy in this country only serves to prove that there has been no great question dealt with by this political organization with success. They commenced by resolving Mormonism out of existence. I believe the Mormons then numbered about 25,000 souls. The Republican party has hardly had a national convention, so far as I recall, that they have not "resolved" out polygamy, and so they have proceeded year after year, period after period, until the 25,000 Mormons that confronted them with this grave problem in the early days which I have mentioned now number 300,000 to 500,000.

Conditions which are peculiarly marked make it not altogether inappropriate that mention shall be made of what is known as the Indian question. I see by the newspapers that Sitting Bull was killed yesterday, with his little boy twelve years of age, his little "Crow Foot," and a half dozen others of his band, and as many friendly Indians, who were engaged in his capture. I allude to this subject, not for the purpose of discussing the present situation, but of calling attention to what has been the situation any year and any day since the Republicans have been in power, through the maltreatment of the Indian or the maltreatment of the Indian question.

War, constant, eternal war between these people and the whites has been maintained. You had your fights in the lava beds of the Black Hills and your Custer massacre, and Heaven only knows what the wild winds may waft to us any moment now touching the situation. But a failure, an ignominious failure—and I am not prepared to say it has not been a corrupt failure—to deal intelligently and fairly with this great question marks a chapter in the history of Republican administration. The Indian is passing away under the advancing tread of white "civilization," but the imbittered wail of his last farewell may not soon be forgot. He is not himself spared, but he will kiss his last good-by to earth with the uplifted hand that does not spare.

Take the public lands. Where are they? I remember very well the first speech I ever made in politics. I was advertised and her-

alded, as we all are, to perform our constantly recurring duties on the stump, and somewhat to my surprise and greatly to my delight when the time came for me to speak, I had a large audience. In those days it seemed to me an enormity, as it does now, that whole empires of the people's lands should be squandered on private corporations, and I made that subject a very conspicuous feature in what I had to say. A young man—I need not mention his name, but he is in my State now, practicing law—a carpetbagger in that day and generation and not much better yet, answered my speech on the squandering and extravagant waste of the public lands, and about the first thing he said, replying to me on that issue, was to admonish me that much graver matters concerning the people than that were to be passed upon in that election, and he immediately took up the reconstruction of the South and the sins of the rebellion.

So, from that day to this, I repeat there has never been a time when that question, the Mormon question, the Indian question, or any other great question upon which the people of this country were called to pass at the polls, when the Confederacy, with the accompanying passions and prejudices of the war, were not invoked to blind the popular eye.

Take the Navy. I believe the last I heard of the American Navy until we had a Democratic Administration was a solemn resolution adopted by the Republican National Convention which met at Chicago and solemnly demanded a "restoration of the American Navy."

Where had it gone? Under whose manipulations had it disappeared? Who directed the agencies that made it cost three times more to repair old hulks than the new ships had cost in the start? We had a Navy, which had achieved renown in the early history of our country. We had a Navy which had proved sufficient at least in the war of 1812 and in the late war between the States. We had a Navy which might have formed a nucleus for its own re-establishment, but our Navy disappeared.

I am not talking now about the South. I do not say, you, sir, or I, but "we, the people." If the people dared anywhere to murmur at the rapid vanishing of what still remained of the proud relic of a once glorious Navy, which had had its triumphs on every sea, the people must be diverted from the practical, the business, the sensible administration of the affairs of their Government, and pass then as we are to pass now upon the relations of the South and the past history of the country.

And our commerce, what became of that? Our commerce was driven from the high seas. I think we ranked second, I believe I am right—about the opening of the late war we ranked second among the carrying nations of the world. The last time I had occasion to investigate the subject we ranked about thirteenth, and we could not boast of that place in the category except for the fact that there are only ten or twelve nations that pretend to have any carrying trade at all. Our mails to-day can not go abroad except on English hulls and under the British flag. They can not be taken eastward or westward except by some contract stipulation between this Government of ours and some other great power. Under the financial devices of this same political organization counterfeit coin, obscene books, contagious diseases, and ships—there they stand, there is the category—counterfeit coin, obscene books, contagious diseases, and ships are excluded from importation. Thus we are paying one hundred and fifty millions annually to foreign agencies for conveying our products to the ports of the world.

The man who has dared to complain of that state of things, a political party that is bold enough to declare in its platform that that condition of things ought not to exist, the people who have taken issue upon the merits of that condition of affairs, prayerfully anxious to save a Navy that was once the glory of our flag or a commerce involving the welfare of our national life, have been confronted by political resolutions denouncing the dead Confederacy and warning the good, honest, intelligent voters throughout the country that the very first thing they know Jeff. Davis will land flatfooted again in their midst with all his hosts about him!

Mr. President, the same thing is true in every branch and in every act. Take the tariff; take the revenues of the country. Will any sane man tell me that any people pretending to civilization could ever have been induced to sit by a quarter of a century and witness the financial legislation of this country, except for the fact that, instead of passing at each recurring election upon the financial issues and the merits involved, the people were passing upon the same thrice-told story—a bayonet for every ballot—and the maintenance of that issue alone, and fostering, and nursing, and propagating, and spreading the one great predominant sectional idea always to the front? Not because you want no navy, not because you want no commerce, not because you want to be taxed into your graves, but because you are taught to hate your neighbor, you must vote this ticket! So the silent ballots have fallen and so the machinery has gone on.

Mr. President, I believe that an intelligent man, an entire stranger to our conditions, coming for the first time within our domain and witnessing the vast opportunities which the bounteous hand of Providence has laid before our people, learning, as he would learn, something of the vastness of our resources, the measure of our great prairies, the unlimited extent of our forests and our mines—I believe, as I believe I am alive, that no man on the face of the earth coming in such a manner but would be surprised and shocked to a measure of incredulity that the hand of man by these devices could ever have wrought the conditions, in the face and against the fiat of Providence, which confront us to-day. And yet our Republican friends usually pass two resolutions on these subjects broad enough to cover them all. The first is to survey the continent, with its productions and opportunities, which the hand of the Almighty has given to these people and thank the Republican party for it, and the second is to denounce the South.

I do not intend to occupy the time of the Senate, and it is no part of my purpose to consume time, in undertaking to emphasize the proposition which it seems to me will be accepted wherever it is suggested.

Through all these years, through all the current campaigns, at every issue, at every time, at every stage, it is a thing known of all men that while this process has been going on in the capital at Washington by the powers that have prevailed the popular mind has been diverted and controlled by appeals to the same passions and prejudices of great populations of the country as against their neighbors and against their friends.

No wonder that the country has been filled with millionaires and tramps. No wonder that labor has been starved. No wonder, as has been well said in the course of this debate, that you can well-nigh count on the fingers of your hands and your toes the men who own two-thirds of the continent. No wonder people from abroad may stare in amazement at what they deem the failure of this attempt at self-government, because they think, and they have a right to think, that all that has transpired has been the result of the intelligent, the thoughtful, the considerate judgment of the American people. It has involved one judgment; it has involved one decision; it has involved one idea, one issue, and one alone, and that has been the disapproval, enforced by arms a quarter of a century ago, of the attitude assumed by the South in that unfortunate struggle between the States.

That issue was decided by the soldiers of war twenty-five years ago, and it has been battled and fought by the soldiers of peace from that day to this.

I will not stop to talk about taxes further. We all know that our public debt reached substantially its actual maximum in 1866. In that year, I think it was in 1866, the public revenues from some cause fell off $560,000,000. In 1867 what was known as the Morrill tariff bill of that year was enacted. It was a war tarift, so declared to be by its distinguished author who sits before me. "This is a war measure," he said, "and we must as such give it our support." "It is unfit," he said further, "that the Government of the United States should go to bed without its supper every time the revenues fall off a million dollars in New York." "The manufacturers have all the protection they need," he declared. "They could get along with lower duties, but the country needs the revenue." On that basis, on that theory, on these open, square, and declared terms of contract between the representatives and the people, the war taxes were placed upon their shoulders to meet the exigencies and consequences of war and for no other purpose.

Mr. President, can I be told that such a condition could have been maintained twenty years longer in this country; that the burdens imposed by the exigencies of the great conflict would continue to be borne by this people knowingly, consciously, deliberately? No, sir. From no source does any such intimation come, but they were borne. The taxes on banks were released, the taxes on lawyers were wiped out, the taxes on income, the taxes on corporations, all the taxes of the Federal Government which bore on combined capital in all its forms throughout the country were repealed; but taxes on the wearing apparel, taxes on the farming implements, taxes on all the elements that enter into husbandry, the cultivation of the soil, and the pursuit of the various vocations of the country were maintained—how? Maintained why? For the purpose of Government? No. Because the people wanted them? No; but for purposes which are well understood by the people now, as they have very recently and very effectually shown, and by what process? By the simple recurrence at every election in which those issues were involved to the one old, worn, and yet preserved issue between the great body of the people and the relationship of the South to the late lamented war.

So I say and so I repeat that all these things in detail and collectively, the accumulated iniquities of a quarter of a century have been piled up under the shadow and within the folds of the "bloody shirt."

But, Mr. President, a new era seems to be dawning. I think it was anticipated. I think the evidences are abundant as chickens fly from the coming storm, as swine go squealing down the lane when a storm is nigh, it seems to me it is a demonstrable fact that our Republican brethren saw what was coming and began, perhaps not quite in time, to fortify. They commenced to build and erect their barricades against the people.

I do not know just how far it may be appropriate or proper for me to make allusion here to what transpired or has transpired in another

quarter. It is suggested to me that it occurred at the last session, and hence I can go on, and if any gentleman thinks I am going too far I shall desist.

I might justify myself, as has been suggested, by remarking that I am not speaking of a deliberative body. Hence, I can perhaps go on with impunity.

But, Mr. President, the seriousness of this subject will hardly admit of jocular diversion. The first among these processes was the driving of the Representatives of the people from the House of Representatives. Right or wrong to say it, I will say it and say it here. The Representatives of the people were driven from the House. One man was driven out, as I heard a distinguished gentleman say not very long ago, with a majority of 30, because his majority was entirely too small, and another was driven out with a majority of 13,000, because his majority was entirely too large. But out they went, until usurpation, until arbitrary power had supplanted and dominated the functions of the great assembly.

Mr. President, the seeds of tyranny and of oppression and of despotism that fall on American soil are sown in the wrath of the Lord, and He reaps with the whirlwind. But the House was organized for business. Its presiding officer declared to the American public in a public address that he "thanked God it was no longer a deliberative assembly."

Then, what about the Senate? In order to establish a sufficient and permanent barricade against the people here, smaller States must be admitted into the Union and larger States must be excluded, until we have witnessed the remarkable fact that in the face and in spite of a popular majority by the people never known before, which gives a Democratic majority in the other House of Congress amounting to nearly 150 members, the process of increase in the Republican majority has gone steadily on in this body, adding two already; and before we come to a final vote on this bill, unless it should be hasty and prompt, we shall have added still two more to the dominant majority here.

By this same token it has been held by the Senate—and I presume as it is *res adjudicata* it is hardly worth while to argue with the court—in the application of this same process, looking to the same result, that a Republican minority in a State Legislature could do what a Democratic minority in that same Legislature could not do, thereby electing two Republican Senators and thereby advancing one step further in raising this barricade in the United States Senate against the approach and the reach of the popular mind and the popular heart.

This particular bill was delayed. I believe it is a customary rule and theory of war that armies should not be brought to the conflict until they are ready, until their breastworks are builded, until their fortifications are prepared. This bill went through all the long weary months of the last session in no particular haste. Nobody seemed to be pressing it very greatly. No special impulse was exhibited on the part of either House of Congress to rush it to its final passage. It lay here I do not know how long, but certainly for a long time. It gave way in the last session of this Congress to matters which were supposed to be of pressing public importance and necessity. But the other House having been sufficiently fortified and the Senate it was supposed sufficiently barricaded against the people of the country, the people in the mean time having expressed in a modest way their views about the proceedings going on here, this bill is urged in hot haste, by whip and spur; on the very second day of this session your whole Calendar was swept away, every bill, every resolution, every measure proposed and pending before this body must stand aside in order that now the culmination of this great scheme shall be accomplished to take finally and forever from the masses of this country the right to control their own affairs in their own way and in the forms which have become established and sacred.

It is meet and consistent that the conditions to which I have casually alluded, that the growth of power which has been so constantly absorbing the rights and the liberties of the great masses of the country should now attempt this final culmination by that bill which will tear from their grasp forever all control, all power over the elective franchise and the destinies of the country itself. But shall it prevail?

Mr. President, for a hundred years and more the States of this Union have been left, with a very limited exception in the last few years, in full control of their own elections. The application of the machinery of the present law in New York, in Cincinnati, and to a very limited extent in three or four other cities, has been as far as the Federal Government has gone toward the practical and direct interference with the conduct of their own elections by the people of the several States. Under the old system the exciting scenes of 1840 were enacted without complaint, and again in 1844. Under this system, which left under the Constitution to the people of the States the regulation of their own elections, this country went through the scenes enacted by the great civil war.

Through the dark days of reconstruction, except in Southern States, to whose condition I have alluded, the original plan proved sufficient and satisfactory. For a hundred years the people have been the sovereign and we the servants. It is only now, under the exigencies which confront not a majority of the people, but a minority, that the States are to be distrusted; that the powers which have been employed for popular weal are to be wrenched from the localities and the strong arm of the Federal power is to succeed.

I see my friend the Senator from Maine [Mr. FRYE] in his seat. Excepting a particular part of the country after the war and in the days of reconstruction, as I have said, it was not found necessary to put a "bayonet behind every ballot." I will divert for a moment to call the attention of my distinguished friend to a little comparison which his suggestion I think involved.

If you carry out the plan of the Senator from Maine and undertake so to conduct the elections as to place a bayonet behind every ballot, the Senator has forgotten in the haste of his expression of distrust of Democrats and faith in Republicans the important and necessary fact that it is impossible to carry out the terms of his suggestion. No Democrat, of course, can have a bayonet; he is a thing of evil. The distinguished Senator declares that no man can be trusted in elections after he joins the Democratic party.

Now, my distinguished friend will discover if he will look at the late reliable census returns—I do not allude to Mr. Porter's office, but if he will look at the returns of the late election, held on the 4th day of November, he will find when he takes every Republican in the United States and puts a bayonet in his hand and puts each of them behind a ballot in the hands of a Democrat there will be some six or seven hundred thousand Democratic ballots for which he will have no bayonets.

Mr. FRYE. Oh, no; the colored men could carry those bayonets.

Mr. KENNA. Suppose, from the Senator's standpoint, the colored population were supplied with the bayonet, he would still have a sparsity of bayonets for the ballots which the people of this country have cast. What is he going to do about it?

Mr. President, it may lead me a little out of the course of the discussion which I intended to pursue further, but I will take time now to call attention to what in my judgment is meant by a bayonet behind every ballot. The President in his message to this Congress, touching upon the subject of elections and urging and coercing and driving as far as it is in him to drive the Republican majority of the Senate to support this bill, uses some expressions, perhaps for the moment forgetting the result of the late election. After speaking of the condition of the States, or rather what the people would say with reference to free and honest elections, he said:

> It is gratifying to know that generally there is a growing and nonpartisan demand for better election laws. But against this sign of hope and progress must be set the depressing and undeniable fact that election laws and methods are sometimes cunningly contrived to secure minority control, while violence completes the shortcomings of fraud.

Turn to the result of the election in November and tell me, pray, to what minority is this cunning contrivance calculated to give the control where "violence shall complete the shortcomings of fraud?" Standing before a popular verdict, standing, by the official record, in the face of a popular uprising such as the Almighty had never allowed mankind to witness before, openly proclaiming a bayonet for every ballot in the hands of a free people, thoughtlessly it may be, inadvertently perhaps, casually it was undoubtedly, but in fact all the same in the face and before the pressure of more than half a million of popular majority in the elections of this country, the President sends to Congress his admonition:

> But against this sign of hope and progress must be set the depressing and undeniable fact that election laws and methods are sometimes cunningly contrived to secure minority control, while violence completes the shortcomings of fraud.

"Election laws and methods are sometimes cunningly contrived to secure minority control," and he might have substituted the words, and a "bayonet for every ballot" will "complete the shortcomings of fraud."

Mr. President, there is no mistake about what this bill means. There is no mistake about what its terms provide. There is no mistake about the object it is to accomplish, and there is no mistake that it is a "cunning contrivance" to place in the hands of a minority the control of the institutions of this great people, with a bayonet for every ballot to perpetuate their ruin.

I said there was no hurry at the last session. The Senator from Massachusetts very courteously—and he is always courteous when he wants to be—very modestly suggested to us on this side the other day that it was not worth while to talk about this bill. He said we do not want any debate on this bill; you are not going to have any effect on the vote of anybody on this side; you can not change a man; what is the use of talking about it? I do not quote his language. He was more literate and his expression involved a better nicety than I use; but that is the substance.

Mr. President, it may be that nothing said here will change a vote on the other side or on this side upon the merits of this bill on its passage or on its amendment. I recall with much satisfaction the fact, however, that very early in the discussion on this subject I believe the first speech drove a very obnoxious feature out of it, or as far as it could get out, with the utter failure of the committee to know whether it was out or in their report. I recall further the fact that what was known as the Blair bill, what is still known as the Blair bill, came before the Senate in one Congress and passed by an overwhelming majority. My

recollection is that it came again and was passed, and my recollection, if it serves me aright, is still further that it came the third time. That was the time when the distinguished Senator from New Hampshire treated us to the numberless speeches he alluded to the other day, in which there was so much "good sense," and that time it did not pass.

Mr. BLAIR. Mr. President, if the Senator will allow me, had that bill been passed there would have been no occasion for this one.

Mr. KENNA. That may be. I was not pretending to contrast the merits or the demerits of the two bills or in anywise to reflect upon the Senator from New Hampshire; but what I wanted to say, and what I will now say, is that the discussion of that bill, whether right or wrong, day in and day out, week in and week out, resulted in the consideration of it at three different times by the Senate. The first time it passed, the second time it passed by a smaller majority, and the third time it was defeated. So, somehow, somebody was affected by discussion either for or against it.

I remember very well also that the tariff bill occupied not the two months occupied by the Blair bill, but three or four months in the last session. I remember that pretty much the same tone pervaded the Senate. There was a very strong impression on all hands that nobody's speech would affect anybody's vote on that subject. Nevertheless, Mr. President, the result of the election that transpired shortly after the passage of that bill indicates that somebody's vote was affected by something, whether by the discussion here or by the discussion elsewhere I do not know.

And I do know, if the press is to be believed, and I have no disposition to question it, that after the whole three months of debate here on the merits of that bill, and after a full month of debate on the stump on the merits of the same bill, its own author proclaimed through the press of the country that the people had defeated the Republican party through their utter ignorance of its provisions; that it had not been sufficiently discussed; that the people were not educated by four months of the discussion of the tariff bill with reference to its merits. But this particular bill, the Davenport bill, must be brought in here and proclaimed a free right of way within twenty-four hours without discussion.

I might go on and talk about these matters indefinitely. I recollect one occasion here when we were considering the interstate-commerce bill, when some proposition was offered touching free passes to members of Congress, where, upon a sudden vote, by the mere voice, the matter went flying through without any opposition whatever. But the Senator from Kansas rose in his place and made a few observations touching the amendment and within fifteen minutes, perhaps in less time than that, the action of the Senate was reversed.

I recall a similar instance when the late distinguished Senator from Kentucky, whom I always mention with veneration and love, Mr. Beck, brought forward a bill affecting the rights of attorneys representing corporations to hold seats in Congress, and it passed the Senate without a dissenting voice. The distinguished Senator from Vermont [Mr. EDMUNDS] rose in his place and made some pungent suggestions. moved a reconsideration, and the bill went to his committee and died,

So it is an injustice to the Senate, not to the individual who may now or at any other time happen to be addressing the Senate, to say that discussion here means nothing that men's minds and opinions are so arbitrary and so fixed and so determined that discussion may not develop modification and change. I must say with the utmost frankness that I regarded the attitude assumed by the Senator from Massachusetts as meaning precisely what was meant by a distinguished gentleman presiding over another part of this Congress when he thanked God that the House of Representatives was no longer a deliberative body. I think the honorable Senator from Massachusetts meant precisely that and nothing more. Well, I am thankful that the Senate of the United States is a deliberative body, and, as is suggested to me, it will not be very long before the other House will be a deliberative body again.

Mr. President, this attempt on the part of the Senator from Massachusetts to crowd this bill through, the hasty purpose manifested by him to coerce the passage of this bill without discussion—this purpose evidently in some measure concurred in by his side of the Chamber, because for days they sat here without uttering an expression, giving us no opportunity to ascertain their views as to the substance of the whole or parts of the bill, and no written report accompanying it—all this, I say, had a tendency to impress upon my mind the idea that for some good reason, something at least entertained as a good reason in other quarters, it was wise, possibly for partisan reasons, to smuggle this bill through Congress, wise to have the bill invade the statute book as silently as the tread of a thief by night, without discussion, and by the silencing of Senators here, the consequent silencing of the press, and the cutting off from the people of their only avenues of approach to its provisions and details, to leave them in the dark.

Mr. President, what is this bill? What is it all about? What are its provisions? What is its inspiration? Where does it come from, and what is meant by it? The Senate amendment, the proposed substitute, running along in the same words, I believe, as the original House bill, provides in its first section, among other things, that it shall be the duty of the supervisors to be appointed under it to have charge of the "prevention of frauds and irregularities in naturalization." I refer to that clause of the bill at this time because it establishes a connection which I think important in order to an intelligent understanding and comprehension of the purposes of the bill itself.

It has been said on this floor, and I believe it has not been denied, that John I. Davenport is the author of this bill. We all know that no Senator is the author of it. We all know that no Representative in the other House is the author of it. We have the bill before us. Whether it is the product of a felon or fanatic, whether it be the product of a Solomon or a fool, the bill is here. Its terms and provisions are before us. Its object and purpose are carried on its face. But Mr. Davenport is a chief supervisor. He went into office, I believe, very soon after the enactment of the original law of 1870. It is understood, and I believe it has not been denied, that Mr. John I. Davenport is the author of this bill. It sounds like him; it looks like him; it reads like him; every construction you give it on its face, every section, every clause, every line, and every letter spells John I. Davenport from one end to the other. I have no doubt that the statement is correct, and truly made, that John I. Davenport is the author of this bill.

The chief promoter of the bill on this floor is the distinguished Senator from Massachusetts and the second in command seems to be the equally distinguished Senator from New York [Mr. EVARTS]. It seems to me to be meet and proper that these two distinguished gentlemen have been selected, either by others or by themselves, to take charge of this bill and to promote its passage. One of them, as far as I know, derives his inspiration from his experience as part of a tribunal known as the Electoral Commission, which officiated in this country, somewhat to the country's disgust, in 1877. The other derives his from his experience as advocate and counsel before that same tribunal. I have before me, I think I can turn my hand to it, a matter not without interest when we come to look for the inspiration that prompts this measure, when we come to examine it with a view to ascertain what are the objects and purposes it is intended to achieve.

In the consideration of the Louisiana case by the Electoral Commission, when the attempt was made by the Democrats contending before it to introduce to that distinguished body evidence showing the conspiracies, the perjuries, the general rascalities and frauds perpetrated, the forgeries of the Weber and the Anderson and the Eliza Pinkston combination in that State, it was the distinguished Senator from Massachusetts who offered the resolution that the evidence be not received. It is doubtless true that the Senator from Massachusetts is not the author of this bill. I am speaking for myself and nobody else; and it is not my fault that the distinguished Senator is not in his seat. Perhaps that is one of the reasons why he guaranties this side of the Chamber that gentlemen on that side shall in no way be influenced by the discussion.

Mr. HOAR entered the Chamber.

Mr. KENNA. I see that the Senator from Masachussetts is in his seat or about to be. I will repeat, therefore, that the Senator is not understood to be the author of this bill. I presume he is not; but, speaking for myself, it would have been in no sense a surprise to me if the bill before the Senate and the resolution I hold in my hand had emanated from the same source:

Resolved, That the evidence offered be not received.

That is all there is in the resolution, but there is a whole world of infamy and rascality behind it. Mr. Commissioner Abbott offered this resolution:

Resolved, That the Commission will receive testimony on the subject of the frauds alleged in the specifications of the counsel for the objectors to certificates numbered 1 and 3.

The distinguished Senator from Massachusetts by his vote aided in the defeat of that resolution. Mr. Commissioner Abbott then offered this resolution:

Resolved, That testimony tending to show that the so-called returning board of Louisiana had no jurisdiction to canvass the votes for electors for President and Vice President is admissible.

The distinguished Senator from Massachusetts aided in defeating that resolution. Mr. Commissioner Abbott then offered this resolution:

Resolved, That evidence is admissible that the statements and affidavits purporting to have been made and forwarded to said returning board in pursuance of the provisions of section 26 of the election law of 1872, alleging riot, tumult, intimidation, and violence at or near certain polls and in certain parishes, were falsely fabricated and forged by certain disreputable persons under the direction and with the knowledge of said returning board, and that said returning board knowing said statements and affidavits to be false and forged, and that none of the said statements or affidavits were made in the manner or form or within the time required by law, did knowingly, willfully, and fraudulently fail and refuse to canvass or compile more than 10,000 votes lawfully cast, as is shown by the statements of votes of the commissioners of election.

The distinguished Senator from Massachusetts aided in defeating that inquiry into the fraud and rascality and forgery involved not only in the election, but in the returning board, upon whose action his own course was based.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. KENNA. Certainly.

Mr. SPOONER. Of course this is a collateral matter, but does the

Senator contend as a matter of law that evidence behind the returns was admissible?

Mr. KENNA. When I make my complete answer the Senator will see how inappropriate it will be for me to go into that proposition at this time.

Mr. SPOONER. I only want in this connection to remind the Senator—it will take only a moment—that when the electoral bill was pending in the Senate a motion was made to amend it so as to authorize the commission to take testimony *aliunde* the returns and the record. My recollection is, and I think I am right about it, that every Senator but one on both sides of the Chamber voted against it.

Mr. KENNA. I do not remember the vote of the Senate upon the particular provision alluded to in the electoral bill. I know by this record that the votes on these propositions by the commiseion involved the old-fashioned, famous, celebrated, notorious 8 to 7.

Mr. REAGAN. Will my friend allow me?

Mr. KENNA. Just in one moment; I will not take more than a minute.

What I desired, however, to say in producing this record was that it seems to me appropriate and a thing to be expected that a bill like this should emanate from a source which, forming part of a returning board such as this bill is to create in every State, should hold in the Louisiana case that that board had no power to go behind the returns and receive evidence, and yet that after the purpose of that same body became involved in a different direction in the Oregon case it should receive evidence and exercise judicial functions. So the Senator from Wisconsin will see that it is not the merits of this particular proposition or of that particular proposition that I am discussing, but it is the dealing by that commission with one in one way and another in another way as the ultimate purpose was best to be subserved. Now I will hear the Senator from Texas.

Mr. REAGAN. Mr. President, I wish to suggest that, however the vote may have been upon the question mentioned by the Senator from Wisconsin, it was held by the Republican members of that commission that they could not go behind the returns; and the fourteenth section of the bill now under consideration, prepared under the control of the same Republican party, provides for going behind the action of the returning boards.

Mr. KENNA. The Senator from Massachusetts will not regard as unfavorable anything I may say in regard to his connection with that commission. I do not doubt that it is the proudest chapter in his career in his estimation. I do not doubt that the same thing may be said of the distinguished Senator from New York. I remember very well that some lady, a Mrs. Fassett, painted a picture of the Electoral Commission. It represents the distinguished Senator from New York standing in the front of the tribunal.

I do not remember whether it depicts him at precisely the juncture when the commission was refusing to hear this evidence of fraud and of forgery and of general rascality, but at some particular juncture in the proceedings of that tribunal the Senator from New York has the floor and is the principal, central figure. All about him are painted the distinguished people of the country. The whole commission of course is there, the counsel are all there, and there are many figures of the Senate, of the House of Representatives, of the Cabinet, and the Departments, and a great many ladies in the picture. It is a great picture to go down to posterity—for any man who wants to go down in that connection.

I witnessed one of the scenes from which the inspiration to paint that picture was drawn. I do not want to divert sufficiently to make myself tedious, but I shall always recall with vivid recollection and with very great interest the scenes that were then and here enacted. I had been elected in 1876 to the Forty-fifth Congress. In February of 1877 I came down to look around a little, to see something of the ways and means of procedure here, to make myself, as I supposed of course I could, entirely familiar in a week or two with everything that was done and the manner of doing it in Washington.

I will recall until my latest breath the scene that was enacted in the House of Representatives on the occasion of my first entrance to it. It must have been 11 o'clock on the Thursday night preceding the finality of that count when I entered the House with my friend, afterwards my colleague, Col. Ben Wilson, representing the Wheeling district of my State at that time. The House was so packed, so utterly jammed with human flesh, that it was almost impossible to pass from the door to the space occupied by members.

We finally worked our way in. The distinguished father of my present colleague [Mr. FAULKNER] occupied a seat in that House. Although he was advanced in years that courtesy which had marked his whole career could not yield itself even to an occasion like that, and he insisted upon my taking his seat, which I did. Some one kindly provided him with another. I remember Hon. Jere Black, of Pennsylvania, sat on my right. The late S. S. Cox, of New York, and John Young Brown, of Kentucky, were very near, and Mr. Faulkner was immediately in my rear. I could go, for I can see it as plainly now as I could see it then, through a space of 30 or 40 feet about me and name almost every personage who filled that space.

I had hardly more than got seated before a great tumult arose. In a few minutes, in less time than it takes me to recount it to this body, every member on the floor, with scarcely a dozen exceptions, was on his feet. Forty men were on their chairs, when Beebe, of New York, tall, strong, robust, a splendid specimen of physical manhood, leaped to the top of his desk and clamored "Mr. Speaker," holding the Cronin contested certificate from Oregon in his hand. That was the first time I ever saw Samuel J. Randall, and I never knew of an occasion to transpire which afforded any man an opportunity for the development of the great, lofty, magnificent powers he possessed better than that occasion afforded to him. Forty men yelled "Mr. Speaker." Beebe's voice could be heard above them all. The excitement was intense. That turmoil and confusion proceeded for a minute or two, perhaps for five. Mr. Randall rose in his place and tapped the desk with his gavel. In a tone as characteristic as man's words could be of their author he said: "The Chair will remind gentlemen that this is the American House of Representatives, and I as its Presiding Officer can no longer tolerate this disorder." It was only a few seconds before order was restored. There was a silence as of death that pervaded the great Chamber. Some matters of incidental and routine procedure advanced, and then for the first time I saw another gentleman who made an impression upon me that night which has ripened into a friendship as devoted as mortal can entertain for mortal man. JOE BLACKBURN, of Kentucky, as we love familiarly to call him, pressed his way into the Chamber with his coat on his arm and his hat in his hand. The time had glided until the dial of the clock on the front door of the House showed 12 o'clock.

Mr. BLACKBURN came down the aisle and took the floor. He made a speech, which is short and so essential to a proper conception of my idea of what the returning-board, the canvassing-board feature of this bill means, that I will read it, at least in part. Mr. BLACKBURN said:

> Mr. Speaker, the end has come. There is no longer a margin for argument, and manhood spurns the plea of mercy, and yet there is a fitness in the hour that should not pass unheeded. To-day is Friday. Upon that day the Savior of the world suffered crucifixion between two thieves. On this Friday constitutional government, justice, honesty, fair dealing, manhood, and decency suffer crucifixion amid a number of thieves. [Applause on the floor and in the galleries.]

And the distinguished Senator from Massachusetts was there and did not call the House to order!

> It was on that day that this Presidential fraud received its nomination at the hands of the Republican party. It was upon that day as it recurred that every determination reached by the blistered, perjured miscreants that constitute the majority of that commission have been promulgated to the country. It is on that day that you propose to consummate your iniquity and foist into a place of power him whom the people of the land have spurned, scorned, and rejected at the polls. If it must be, it is well that it should occur here and now; but it is well also that before the day is finished the truth should be vindicated and the record should show upon whom the responsibilities fairly rest. Those responsibilities do not rest upon the shoulders of the American people. They finished their work manfully and faithfully.
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> When the sun went down upon the 7th of November they delivered to their representative a title to that office indefeasible and indisputable, backed by a majority of 260,000 votes. By their leaders that title has been gambled off, gambled away with a stocked deck and loaded dice. It is upon us, the Representatives of the people, that the responsibilities for this disgrace are fairly cast. I say it not in anger, but in sorrow. I impugn the patriotism of no man who voted for that bill, but I say it in sober earnestness, and the verdict of history will support the assertion, that it is owing to our own want of sagacity, want of nerve, want of devotion to the trust confided to our keeping that we are now indebted for the pitiable and humiliating spectacle that the American Republic offers to the world.
>
> The responsibility is ours. Let the people understand that; let us shoulder it and bear it as best we may. Mr. Speaker, when the time shall come for those who have brought this disaster upon us to account to that power that stands behind us, and from which we may not hope to escape, I trust that the manliness that has been lacking here will be manifested there; that we may go back and tell the people that the trust confided to our keeping has been abandoned or surrendered; that we acquit them clear and hold ourselves alone responsible. I know, further, sir, that when the passions and prejudices engendered by this contest shall have passed and sober judgment shall have resumed its sway the honest, conscientious, patriotic comrades who sit about me, who pursued that course which rendered this result possible to the country, who refused to raise a hand to thwart this crowning degradation, will feel that they have no excuse to offer, only pardon to ask.

I refer to Mr. BLACKBURN'S speech with reference to the action of that Congress touching this enactment and of that returning board in executing it, because from that time to this there has never been a day when by voluntary assent of mine such a power could be intrusted to any tribunal on the face of the earth controlled and directed remotely from the people.

Mr. President, I have said and I believe that this bill finds its inspiration in the experience which that commission afforded. I have alluded to the picture of Mrs. Fassett. Let it go down to posterity. I believe Congress has bought it. My recollection is that we passed a bill appropriating some $10,000 to pay for that picture. But that picture ought not to go down solitary and alone. That picture represents only the upper end, the higher stratum, of this element of machinery.

Let that picture go with the Senator from New York the central figure in the group. Let that picture go with the Senator from Massachusetts a conspicuous figure on the board. Let that picture go, but take the report of Mr. Lynde, of Wisconsin. Take John I. Davenport. Take the man who with a stroke of his pen could issue warrants for the arrest of 9,300 American citizens. Take the extemporized Bastile which was pictured here on yesterday by the Senator from North Caro-

lina [Mr. VANCE] as he drew it from the testimony of the witnesses before the Lynde investigating committee. Take the extemporized Bastile crowded to suffocation with American freemen looking and gasping for breath through its iron bars. Marshal the thousands into column, and on the streets, down the great thoroughfares of the great metropolis, this piteous spectacle shall be made to confront the American gaze. Let the pictures go down. Let the 10,000 be painted. Let the iron bars be marked upon the canvas. Make John I. Davenport the central figure. I will vote for an appropriation to pay the $10,000 that will buy it from the distinguished artist, and let it go down to posterity with its fit and appropriate companion piece, the "Electoral Commission."

Ten thousand freemen to be snatched from their daily walks by the stroke of a pen—twice as many as Jackson commanded at New Orleans; four times as many as the gallant band that wintered with Washington at Valley Forge; more than enough to change the tide of battle on any great arena of civil conflict in our late war.

Boastfully the same distinguished chief supervisor announces to-day to the Senate of the United States through the agency of his choice, the distinguished Senator from Massachusetts, that it is all a mistake about his having issued warrants for so many in the last election, that he arrested only 800 men. Only 800 in the last election! Of the 9,300 for whom warrants were issued in 1878, not from that day to this day was a solitary man convicted of any offense against God or man.

Mr. President, that was the manner in which this chief supervisor, John I. Davenport, exercised the functions imposed upon him by the clause in the House bill and in the proposed Senate amendment which gave him charge of the "prevention of frauds and irregularities in naturalization."

We are told that he is an honest man. We are told that he is a patriot. We are told that he is a fair man. We are told that his whole soul is wrapped up in the idea of the purity of elections; that he is inspired, controlled all the time, daytime and nighttime, by the one great object of securing to American freemen a good, honest ballot and a good, fair count. My God! If the administration of that law by John I. Davenport is to be accepted as an honest application of it, where are the people of this country to be when, instead of John I. Davenport in the city of New York, there is a John I. Davenport at every polling precinct in the United States? If instead of John I. Davenport, the honest, immaculate, there is a John I. Davenport, the scoundrel, to manipulate the vote? If an honest man in the administration of an honest law, bent upon the procuring of honest results, can snatch the liberty from ten thousand men by one stroke of his hand and hold them till the election is over, where are to be the other thousands, the tens of thousands? Where is to be the voting population of this country when there is a bayonet behind every ballot and a Davenport behind every bayonet? [Manifestation of applause in the galleries.]

The PRESIDING OFFICER (Mr. CULLOM in the chair). Order must be preserved in the galleries.

Mr. KENNA. Mr. President, if the scanning of this bill from its title-page to its conclusion afforded no objection upon which to cast a vote against it, its authorship and its source would condemn it and damn it in every line and letter forever. It never was intended to promote honesty at elections. It never had associated with it any design to promote the honesty or the purity or the freedom of the ballot.

I had intended to read the report of Mr. Lynde, but it is wholly unnecessary that it should be done. Such parts of it as are illustrative of this and other lines of argument pursued here have been read to the Senate.

What is the theory of this measure? How does it happen that in this Congress, represented by two gentlemen from each State in this body and by one from each Congressional district in the other, we come here and finally resolve that the intelligence which selected us is not sufficient; that the honesty which controlled that selection is not sufficient; that the constituencies by whose voice, by whose authority, by whose power we hold our places here are not as intelligent as we, not as honest as we, not as capable as we of understanding the administration of their own affairs, the selection of their own agencies of which we are a part, but that by some mystic influence or inspiration we possess these qualities in a higher degree than they, and that by the same source of inspiration we can find among them what they can not find themselves, men who are honest enough and with a sufficient capacity to enable them to conduct the public affairs of the country? Take the great State of New York. No man has been willing to stand up here and say that the intelligence and the virtue of that State are not ample to provide for honest elections and to procure them as far as honest results can be procured by agencies that are mortal. No man has been found who would dare to stand up here and say of his own State and people that they are incapable or unwilling so to provide for the administration of their elective affairs as to procure the honest casting of votes and the honest counting thereof. It goes without saying that New York is amply willing and able to conduct its own elections; Delaware is amply capable of doing it; West Virginia is capable of doing it; every State in the Union is capable of doing it.

But where does this land us? When we are brought to confront the question of the control of elections of the States by the States and the people who constitute those States, for the States are the people, we go through the whole category by detail, and what do we find? We find every State to be relied upon in the enactment and administration of these laws. They are the States from which we are forced to make our selection by any agencies we may adopt. We take the States and admit that they possess all the qualifications to be found in this Government for the promotion of purity in elections and the administration of the affairs of government. We are forced to this conclusion or we acknowledge corruption in every walk. And yet when we treat these same States so conceded to be in detail, when we come to confront these same States and deal with them as a whole, the proposition is blandly advanced that they are utterly incapable, utterly too corrupt, utterly too dishonest, utterly too lacking in patriotic impulse to be intrusted to do what in another form we are assuming ourselves to do for them, by establishing the agencies and prescribing the machinery which shall control their elections.

Mr. President, there are a few features of this bill that I want to refer to somewhat in detail. When we come down to the provisions of the bill itself we find a very peculiar situation. The question then arises not whether the States are capable, not whether the States are honest, not whether the people of the States want honest elections, but whether in a Congresssonal district there shall be a hundred or within certain prescribed boundaries fifty men who want an honest election and who desire to secure it by this interposition. The question of the enforcement of this law, which is precisely equivalent to the question of its enactment, is relegated in the one instance to a hundred men and in the other to fifty.

Now, the remarkable thing about that clause in this bill is to be found in the fact that, while under the present law only two are required in one instance and only ten are required in the other instance to invoke the exercise of this Federal power, in both cases the statute requires that they shall be men of character; in both cases the statute requires that they shall be men of respectability. This proposed statute repeals all the character and all the respectability there was in the old law. It is suggested to me by the Senator from Mississippi [Mr. GEORGE] to read that section of the existing law. I will read it because I intend to demonstrate, as this bill demonstrates on its face, that, with the single exception of the three men who are to constitute the canvassing board under its provisions, there is not a solitary man from the top to the bottom of this machinery who is required to be a man of respectability and character. There is not a man who can sell whisky over the bar in my State or any State in the Union who before he can do it is not required to prove a better character than any man has to prove to execute this proposed law and control the franchise of the people. As marshals, supervisors, chief supervisors, or deputy supervisors, every man may be utterly without character.

There is another thing about this measure that I think the Senate ought to have observed, and doubtless has, but the country may not have observed it. One particular section, relating to supervisors, is framed so much in the line of that cunning which the President mentions when he talks about minority control that it seems, upon a casual reading of the first clause, to apply a character qualification, but it proceeds right along in the very same section, in a subsequent clause, to wipe out the character qualification. Section 2011 of the Revised Statutes provides that—

> Whenever, in any city or town having upward of 20,000 inhabitants, there are two citizens thereof, or whenever, in any county or parish, in any Congressional district, there are ten citizens thereof, of good standing, who, prior to any registration, etc.

Going on then to say that they may petition for this supervision. What does the present bill do? Section 2 provides that this law shall be enforced—

> Whenever the chief supervisor of elections for the judicial district in which such Congressional district or such entire city or town having 20,000 inhabitants or over is situated shall have received from such Congressional district, city, or town an application or applications from one hundred persons claiming to be citizens of the United States and residents and qualified voters in the city or town or Congressional district above mentioned, or whenever he shall receive from such parish, county, city, town, or precinct in any Congressional district an application or applications from fifty persons claiming to be citizens of the United States, and residents and qualified voters in such parish, city, county, town, or election precinct, petitioning him to take such action as may be requisite to secure such supervision therein as is provided by the laws of the United States. Every person making application for such supervision shall subscribe the same and state his citizenship, place of residence, and that he is a qualified voter.

Mr. President, why did not the artful hand that draughted this bill say that "the provision of the Revised Statutes which requires these men to be of good repute is hereby repealed?" That section repeals it. That section strikes down the character qualification. That section turns over to these men the question whether this proposed law shall be enforced or not. That section turns over to these fifty men in one instance and to the one hundred men in the other the question which is precisely equivalent to the question whether this proposed law shall be enacted or not, and yet artfully, slyly, cunningly, to use the President's expression, it repeals the provision of the Revised Statutes now in force, which expressly provides that they shall be men of good repute. There is no evidence of citizenship required, but they are only to say that they are citizens and residents and qualified voters.

Now, what a beautiful state of things we would have if fifty men

should make a statement that they are qualified voters, and upon that statement should petition Mr. Davenport to interpose his power in the enforcement of this measure, and those fifty men should turn out to be Democrats and they should happen to hold certificates of naturalization. There would be the remarkable spectacle of an election held by the interposition of this Federal election law on the application of fifty men declaring themselves to be voters, every one of whom, under Davenport's orders, would be in jail when the election is held.

I am reminded by my colleague [Mr. FAULKNER] that the thirty-second section of this bill expressly repeals section 2011 of the Revised Statutes, in which this character qualification is provided, and that vindicates my statement. To be fair, to be honest, to deal justly with men on this floor, associated together here in the enactment of grave laws, why did not that section say that so much of section 2011 as requires these men to be of good character shall be repealed? No, sir; but over one hundred and twenty pages further on in the bill there is a clause which repeals section 2011, not by reference to its subject-matter, not by reference to the particular qualifications to be stricken out by its provisions, but by a simple reference to section 2011. With that section so repealed, the character, the standing, the humanity, it may be, of the men upon whom alone is to devolve the decision as to whether we are to have a bayonet behind every ballot must depend upon the discretion of the chief supervisor.

Mr. President, under that clause of this bill if there are 40,000 voters in a Congressional district 39,950 honorable, respectable, law-abiding citizens and 50 blackguards, 50 evil-minded men, signing a petition to the chief supervisor, assert that they are voters, assert that they are residents, assert that they are citizens; upon the application and simple statement of these 50 men, in jail or out of jail—they may be in one of your great cities engaged in working out their fines on the public streets; doubtless many of them would be, doubtless many of them ought to be—yet upon the application of these 50 men as against the God and liberty loving people, embracing 49,950, this vast machinery is invoked to control and to conduct the elections. Every man of the 49,950 may over his signature declare his honesty, may over his signature declare his qualification to vote, may over his signature declare his residence, and in the name of decency and liberty protest against this interference, and yet the 50 blackguards whom I have alluded to sign the paper that puts into operation this vast Federal machinery to control their elections!

Is it any wonder that the Senator from Massachusetts did not want this bill discussed? Is it any wonder that he would have seen, if he could, that it would go through here in the silence of midnight darkness? Is there a people in the world knowing the provisions of this bill who would ever tolerate its enactment for a moment if they had the power to prevent it?

Let me refer to section 3 of the bill:

> SEC. 3. It shall be the duty of the chief supervisor of elections in each judicial district, to whom application shall have been made under this act, in due and seasonable time, to inform a circuit judge of the United States for the circuit in which his judicial district is situate that he has business to present to such circuit court in respect to the next ensuing election, at which one or more Representatives or Delegates in Congress are to be voted for, whereupon it shall be the duty of such circuit judge, and he is required within ten days thereafter, to open, or cause to be opened, the circuit court at the most convenient place in such judicial district for the purpose of transacting all such business pertaining to registration or election matters as may, under the laws of the United States, there be transacted and done.

In West Virginia we have at present but one judicial district. We should have but one under this bill. In the circuit in which West Virginia is embraced we have Maryland, Virginia, West Virginia, North and South Carolina. Those five States have seven judicial districts. So there would be seven judicial districts under this bill, because, while the bill embraces, under certain qualifications, other territory than the present judicial district, it would not in our case change the number. In the Tennessee circuit there are also seven judicial districts, and they reach from Eastern Tennessee to Northern Michigan. So there is one circuit judge who will have to perform personally, according to this bill, the functions of this office for the seven districts in my judicial circuit and for the seven districts in the judicial circuit which embraces Tennessee and Michigan. It is utterly useless, it is worse than useless, to contemplate for a moment that the circuit judge of a judicial circuit which embraces seven judicial districts can perform these functions. There are to be seven chief supervisors in that circuit. Suppose the whole seven make application to him on the same day or in the same week. He is to meet at the most convenient point within ten days in each of these districts, and every man knows that the suggestion in the bill that he shall personally perform this function is a mockery and a delusion. It can not be done; it is a physical impossibility.

Then what? Then the bill provides that if temporarily he is not able to discharge these functions they are to devolve upon whom? Upon the judge of the district? No, sir. Upon the district judge of the election district in which the functions are to be discharged? No, sir. Upon a district judge, it is true, but a district judge to be selected by the circuit judge. Suppose he selects a district judge. Then he has one in each district. Suppose the chief supervisor in West Virginia announces that he has had a petition for supervision over the election, or, in other words, announces in the language of the bill to the judge that he has business with him. Suppose he has had that petition from all four of the Congressional districts. Suppose in New York he has had that petition from the whole thirty-five Congressional districts, as he will have if this bill ever becomes a law. Then he takes in West Virginia the judge off the bench. I do not know how many districts they have in New York, but every district judge they have is taken out of the ordinary line of his judicial functions, off the bench, and put in charge of the election districts. He can not sit at the most convenient place in one district because he is called upon to discharge the same functions in thirty-five districts. In the case of West Virginia he may undertake to sit at one point, which he may endeavor to make as convenient as possible to all four for the execution of the functions which this bill imposes upon the judiciary.

It is a practical and physical impossibility that the judiciary as now constituted can perform these functions, and I have never doubted that it was well known by the author of this bill that it could not. I have never doubted that one purpose to be accomplished by this measure if it passes Congress is a repetition of the result that occurred in England when the House of Commons or Parliament placed the disposition of its election matters in the hands of the courts. The inevitable consequence was that the judges of the courts of common pleas assuming this jurisdiction were authorized each to appoint an assistant. The number of judges was duplicated, and in the case of municipal elections every judge was authorized to appoint five barristers to assist in the accumulated and cumulative work that the statute imposed.

Even in England under the form of government that prevails there no common henchman or tool was selected to perform the combined functions of prosecutor, bailiff, and judge at the same time. There barristers of not less than fifteen years' experience were invoked to aid in the execution of this law, and so we shall have it here. Already a bill has passed the Senate which adds nine more to the circuit judges of the United States. Already the addition of new States necessitates the adding of two to that list, making eleven. Already a House bill provides for eighteen instead of nine. Already, as the country knows, the calendars of the courts from one end of it to the other are so overcrowded as to amount to a practical denial of the administration of justice. This Congress passed an act—I have forgotten how long ago, but certainly not more than a year or two ago——

Mr. COKE. It is in the hands of a conference committee.

Mr. KENNA. I refer now to a different act. Two years ago this Congress passed a law which provides for a session of the United States circuit court in my town, the capital of my State, and from that day to this day no such court has ever been held in that town except by a district judge. I make no complaint, nor does the bar, that the circuit judge of that circuit has not held a court. The duties imposed upon him, I doubt not, have made it utterly impossible. There was one session of court held there by an associate justice of the Supreme Court by invitation of the bar, and only on one occasion, and that on the express invitation of some members of the bar. With that exception, for two years the circuit judge, presumed to exercise the functions of this high office in the administration of justice in the capital of that State, has never placed his foot within its borders, and these are the men who are called upon to assume these extraordinary functions; these are the men who are to be everywhere at the same time in all the States and districts composing their circuits, these are the men who are to carry their powers in their pockets, exercising them in vacation, exercising them at chambers, exercising them at the rate of 60 miles an hour on the public highways of the country.

Mr. President, a little further along, if my strength holds out, I shall have something to say about the connection that this bringing in of the judiciary forms to complete the chain, in order to weld and fasten the links that reach from the White House, that reach from the Chief Executive, through all the ramifications and walks of civil life, to hamper, to chain, and to bind the elective franchise. My friend the distinguished Senator from Delaware [Mr. GRAY] called the attention of the Senator from Massachusetts the other day to the fact that this bill in the fourth section provides that:

> Any male citizen of the United States of good character, a resident and qualified voter in the city or town, county or parish, or in the Congressional district in which shall be situated the place in which he is to discharge his duties, and who can read and write the English language, may, at any time, between the close of one Congressional election and the holding of the next succeeding election at which an election for Representatives or Delegates in Congress is by law required to be held, or at which a special election is ordered to fill a vacancy, apply over his own signature on such blank form as the chief supervisor may prescribe to be appointed a supervisor of election.

Why provide by law, the Senator asked, that a citizen may make application which he has already the full right to make without the law? The distinguished Senator from Massachusetts answered, and one reason he assigned was as follows:

> If these officers, having undertaken the duty, having been clothed with this duty, do not discharge it, but abandon it while the election is going on or just before, when it is too late for other officials to be appointed, of course the whole conduct of the election is interfered with.
>
> So the Senator will find later in the bill the penalty on such officers, if they undertake the duty, for not going on and completing it; and for that reason it was considered proper to invite the application of the person willing to undertake the office in advance, in order that there might be no injustice in imposing a severe and serious penalty on him if he refused to go on and complete it.

Later the Senator from Massachusetts said:

Mr. President, I ought perhaps to have said, what I have been reminded of, that there is also another reason for this provision. The law requiring the supervisors to be able to read and write the English language, this application enables the court to judge somewhat of their capacity in that respect.

Mr. President, neither of those answers gives the reason for the insertion of that provision.

"Any male citizen of the United States of good character" may make this application. But if you will follow the treatment of the same subject into the succeeding sections, what do you find there? You find that the chief supervisor is not limited to the applicants for these appointments, but he may go entirely outside of the list of applicants, and when you come to the appointment that is to be made outside of that list the qualification of good character is omitted! No, the appointment has nothing whatever to do with character. The reading of that fourth section would impress anybody with the idea that good character was essential to the assumption of the functions and their exercise by the supervisors provided for in this bill, and yet, when you turn to the provision which gives full control over the whole subject to the chief supervisor, the element of good character is entirely omitted, and anybody may be selected and appointed whom he chooses to designate. The question, therefore, of character is obliterated from that feature of the bill.

The number of these supervisors is left entirely to the discretion of the chief supervisor. The chief supervisor is not confined to the list of applicants who may be of good character, but the court is confined to the list supplied by the chief supervisor.

I had not intended, and I do not intend now, to discuss any constitutional feature of this bill. I do not desire to discuss anything involved in constitutional construction. If I preferred to do so I should have no temptation whatever to the undertaking in the light of the discussions which have been presented here by the Senator from Mississippi [Mr. GEORGE], by the Senator from Maryland [Mr. WILSON], by the Senator from Indiana [Mr. TURPIE], by the Senator from Virginia [Mr. DANIEL], by the Senator from Delaware [Mr. GRAY], and by others. Everything I could say, and infinitely more than I could say, has been better said than I could do it, touching the constitutional features.

But it is equivalent to striking out with a stroke of the pen the plain words of the Constitution to confer this power upon the chief supervisors and to limit the action of the courts to the list by them supplied. It is not only going to the extent of the declaration made by the Senator from Kansas [Mr. INGALLS] when he stood in his place and declared that the Constitution of the United States meant precisely what the majority of the American people wanted it to mean, but in the light of recent events it is going further than that and declaring that the Constitution of the United States means precisely what a Republican minority of the people of the United States want it to mean. A statute is proposed now and here to be enacted whereby the chief supervisor is not limited to men of good character in his recommendations and whereby the judge is limited to the recommendations of the chief supervisor in the selection of these agencies.

This discussion may go on indefinitely. When we come to the qualifications of deputy marshals no character or qualification whatever is required. It is almost laughable, if anything could be laughable in connection with so solemn a subject, that in the House bill as it comes here provision is made that for the discharge of certain functions only discreet marshals shall be selected, but for the discharge of other functions any kind of a blackguard may be selected. Think of it! Imagine a provision like that in a law for the selection of agencies under the absolute supervision, direction, and control of the chief supervisor of elections; for certain particular objects only men of discretion, only men of repute, may be selected; but—not by inference; I am not drawing an inference; I am not undertaking to make a statement of something that comes inferentially—by the express provisions of the bill, where the supervisor has reason to believe that frauds are about to be perpetrated by registration and naturalization, anybody can be assigned, with or without character, to discharge the function to which he may be assigned.

I shall not be able to retain the floor to go through all these matters, but the list that was read or partly read here yesterday by the Senator from North Carolina [Mr. VANCE] gives a very fit illustration of the kind of men who will be selected. I will read, as illustrative, the names of a few among the men appointed by Mr. Davenport in 1878. I do not know whether he denies this or not and I do not care. I would as lief take the source from which this statement comes as the denial of a man who would select these agencies to discharge these functions. I would infinitely prefer it, because the source from which this statement comes is entirely reputable and respectable. It comes in the publication of a great daily newspaper. It was iterated and reiterated on this floor and never gainsaid in debate. One of these fellows was:

One John (alias "Buckey") McCabe, a supervisor of the eighth district, Fifteenth ward. He is now under indictment for shooting a man with intent to kill. This precious "supervisor" originated here, and was first known to the police for his dexterity in robbing immigrants. His picture is in the "rogues' gallery" at police headquarters in this city, No. 225. He was known as Pat Maddon, alias "Old Sow," alias Honsey Nichols, alias Dennis McCabe.

Another one was:

William (alias Pomp) Harton (colored), marshal Twenty-second ward. Arrested a few days since for vagrancy.

Mr. SPOONER. What year were they appointed?

Mr. KENNA. These are the 1878 men.

Theodore Allen, marshal Eighth ward. Now in prison for perjury and keeps a house, the resort of panel-thieves and pickpockets, on Mercer street.

* * * * * * *

Thomas McIntire, marshal Eighth ward. Has been frequently arrested for beating his aged mother; sent several times to Blackwell's Island.

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Bernard Dugan, supervisor eighth district, First ward. Habitual drunkard; his wife left him on account of his drunkenness and procured a divorce on that ground.

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John Lane, supervisor twenty-second district, same ward. Was indicted for receiving stolen goods. Has served a term in Sing Sing.

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Samuel Rich, supervisor fourth district, Thirteenth ward. Served a term of two years at Sing Sing for felonious assault.

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"William P. Burke, supervisor twentieth district, Eighth ward. Served his term in the State prison of Massachusetts for burglary; also two years in the New York State prison.

* * * * * * *

"James McCabe, supervisor fourth district, Eighth ward. Now confined in the Tombs under indictment for highway robbery.

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"William Irving, supervisor fourteenth district, Eighth ward. Has served a term in Sing Sing prison for burglary committed in the Eighth ward and has never been pardoned.

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"Ed. Weaver, marshal in Eighth ward. Has been but a short time out of State prison, where he has been serving out his sentence.

* * * * * * *

"Walter Prince (colored), marshal eighth ward. Now in prison awaiting trial for highway robbery."

So the list goes on. I am only selecting these few cases because they involve nobody's idle charge, nobody's mere accusation. With, I think, one or two exceptions the names I have read are the names of men stated by this paper to have been convicted of felony and sent to prison. These are the agencies—with "character" struck out, good repute and moral decency in the background—these are the agencies invoked in the presence of sixty millions of people in the interest of a free ballot and a fair count! And they know no discretion. Oh, how fair! Some Republican member of Congress said the other day that you can not complain of this bill, because it is a fair bill. It actually provides that when these supervisors are assigned to duty three are to be appointed for each precinct and only two shall act, who shall be of different parties, one a Democrat and one a Republican, for registration. The point is made that they are to come from different parties. But the better point is that in the first place, if they are selected out of the penitentiaries of the country, it does not matter from which party they come and the next point is that, no matter how or when or where they are selected, they are made by this bill in express terms, willing or unwilling, the tools and the henchmen of the chief supervisors.

The seventh section provides that—

The supervisors of election appointed under this act who shall have duly qualified and been assigned to duty are, and each of them is, subject to the instructions, directions, and detail of the chief supervisor of elections, charged with the enforcement of the election laws of the United States in that portion of the State or Territory in which is situated the election district, voting precinct, or other place where their or his duty is to be performed under such instructions and detail; they are, and each of them is, authorized and required, subject to the same instructions, directions, and detail, to perform and discharge at any election, general or special, at which a Representative or Delegate in Congress is to be voted for—

So, whether one be a Democrat and the other a Republican or both represent the same political organization, no matter who or what they are, they are made by the express provisions of this bill the pliant tools of the John I. Davenports who are to fill the offices of chief supervisor throughout the country. They are subject to his "instructions and direction." No man unwilling to respond to his commands will take the office and no man unwilling to respond to his commands could get the office if he wanted it. Clause 10 of section 7 prescribes:

Tenth. To make, certify, and forward, as in this act provided, all such statements, and certificates, and all such returns of the canvass of the votes cast in his election district or voting precinct as are specially provided for herein and such others as the chief supervisor of elections shall in accordance with now existing laws direct and require.

So that any statement that the chief supervisor requires to be made is to be made by these supervisors, of whose fairness and independence so much is said because of the accident that one may belong to one party and one to the other.

Mr. President, in further support of the proposition that the element of character is entirely omitted from the whole consideration of this vast machinery, on page 83 of the Senate amendment, in section 6, the supervisor is given full power over these people and may turn them out or turn them in, and for what reason? For certain reasons prescribed by the statute and for certain other reasons which shall be his own. Among the reasons prescribed by the statute is the one which is defined in the words "or whose integrity he shall have reason to doubt." This shows beyond any possibility of escape that these men are to be appointed in the first instance without any reference to character, be-

cause if they were men of character there would be no reason to make as a special cause of assault upon them the lack of integrity.

The whole scheme of this bill, from its very first clause to its last, is, in the language of Mr. Harrison, "cunningly contrived to secure minority control, while violence completes the shortcomings of fraud."

Mr. President, there are a number of other matters which I had intended to discuss, but I am a little afraid that I have said more than I ought to have said in justice to myself. I had understood that the Senator from Oregon [Mr. DOLPH] would follow me. I was about to say that there are a number of other features of this bill that I should like very much to discuss, but in my condition of health, although I have somewhat recovered, I do not know but that I have perhaps gone a little further than I ought to; and if it would be satisfactory to the Senator I should be very glad to yield to him at this point and finish what I may have to say to-morrow.

Mr. DOLPH. That is entirely satisfactory to me; I am not in charge of the bill at all. I do not wish to speak for the committee.

Mr. KENNA. I suppose it will make no difference as to the order in the end. The Senator's time and mine will occupy the same aggregate.

Mr. SPOONER. The Senator from Massachusetts who has charge of this bill was obliged to leave the Chamber, and told me he would not be back for a little time and asked me to look to it somewhat, and I am quite certain no one would resist the appeal made by the Senator from West Virginia. I will take the responsibility, as far as the committee is concerned, if it is agreeable to the Senator from Oregon, to say that the committee are quite willing that the Senator should conclude his remarks to-morrow.

Mr. KENNA. I should be obliged to the Senator and to others to pursue that course. I am quite ready to go on except that it would be a great relief to me to suspend until to-morrow morning.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Chair hears no objection to the suggestion made by the Senator from West Virginia.

Mr. DOLPH. I should like to say that if I should not conclude my remarks to-night I should prefer to conclude them in the morning before the Senator from West Virginia proceeds.

Mr. KENNA. Certainly; anything that will accommodate the Senator from Oregon will be entirely agreeable to me, and I assure him he has given me very great relief.

The PRESIDING OFFICER. The Senator from Oregon is recognized by the Chair.

Mr. DOLPH. Mr. President, sympathizing with the desire of the majority of the Senate to reach a final vote upon the bill under consideration, I have hesitated about addressing the Senate upon it. Being drawn a few days ago unexpectedly into a discussion of the evils which are sought to be remedied by the pending measure, without an opportunity of presenting my views upon it as fully as I desired, I am constrained to again trespass upon the time of the Senate. I shall be brief, however, and shall endeavor to discuss the measure with candor and fairness. I shall endeavor not to underestimate the importance of the measure or the gravity of the questions involved.

I am free to say that the discussion of a measure upon which the convictions of Senators are so strong and deep-seated, as well as so diametrically opposed to each other, and which is so well calculated to engender bitterness, is repugnant to me, and it is only a sense of what I consider to be my duty, under my oath as a Senator to support and maintain the Constitution and laws of the United States for the protection of citizens of the United States, that impels me to take part in it.

Overshadowing all other questions demanding solution by the American people, a question compared with which those of finance and the currency dwindle into insignificance, is the race question in the South. It is a question which, like Banquo's ghost, will not down at our bidding, one which we can not afford to evade or ignore, but which requires wise and considerate as well as radical and heroic treatment.

By the bill under consideration it is proposed that Congress shall, in the exercise of its constitutional powers, undertake to deal with one branch of the question, to provide for Federal supervision of elections by the people of Representatives in Congress with a view to securing to all citizens of the United States, qualified under the laws of the States and the Constitution of the United States, the free and peaceful exercise of the right to vote for Representatives. Congress has already provided by law the times at which elections for Representatives shall be held and the qualifications of electors therefor.

If State elections in any State are held upon the same day fixed by Congress for the election of Representatives it is because the people of the State choose to have it so; and by so doing they can not deprive the United States of its power to make regulations for the election of Representatives. So that we may, without further consideration, dismiss the objection to this bill made by Senators on the other side of the Chamber, that if put into execution it would be an interference with State elections.

The bill before us is intended for the prevention and punishment of offenses against the right of suffrage. It relates to Federal elections only, deals only with existing rights, and with a subject within the express constitutional power of Congress, as has been expressly declared by the Supreme Court of the United States. It is not novel legislation that is proposed. It is but an extension of a law which has been in force for nearly twenty years, and has been put in operation in the large cities of the North, including the city of my residence. Its enforcement has deprived no man of his right to vote. Its value has been demonstrated wherever it has been put in operation, and especially in the city of New York. Its results there were highly commended by the late Mr. Cox, and the law has received the commendation of other influential Democrats. It contains no provisions except those necessary to protect the rights of citizens under the Constitution and laws of the United States at Federal elections.

The officers required for its execution are to be appointed, and the provisions of the law are to be enforced, by the Federal courts. There is no force provided by this bill, excepting the force of law. It provides no restraint except for those who violate the law and rob their fellow-citizens of their rights. It is in the interest of good order and is intended for the prevention of crime. People may differ as to the policy of its enactment, but no one can successfully deny the power of Congress over the subject, and to me the power of Congress is the measure of its duty.

The object of all good government is the protection of every right and the redress of every wrong. As organized society grows out of the wants and necessities of individuals and is designed for mutual protection and benefit, it would seem that it should be impartial in its exactions and its blessings. By it the institution and protection of the family, the right of the citizen to acquire, hold, and enjoy property and transmit it to his posterity, the right to life, liberty, and the pursuit of happiness, and the right to participate in the control of the Government should be secured.

Much, it is true, necessary to the happiness and prosperity of the citizen does not come within the proper scope of civil government. But for the purpose I have in view it is unnecessary to inquire what government should be, but what the Government of the United States is. Under a government which the people have instituted and which they control and change at pleasure through ordinary and legal methods, the largest liberty consistent with restraints necessary to good government is enjoyed by the citizen.

Changes in the form of such a government, if a government by the people is to be preserved, must be made by the will of the majority; and ballots, and not bombs and shotguns, are the instruments by which they are to be brought about. We live under such a Government, and whatever may be the inequalities of condition of its citizens it is the best in form which has yet been devised by human wisdom and experience.

The Senator from Louisiana [Mr. GIBSON] interrupted me the other day to deny that colored citizens of Louisiana were prevented from freely exercising the right of suffrage. In the course of his remarks, speaking of his State, he said:

> The white people there own the property of the State; they are the educated people of the State, and it would be very natural in any condition of society that the elder race, so to speak, the race that held the others in slavery, should prevail, because the whole theory of republican government rests upon the idea that intelligence and virtue and character and property rule in every well-organized State. That is the theory. If he will read the earlier writers on republican government the Senator will see that intelligence and education are considered necessary to the safe maintenance of republican institutions. It is for that reason that the people who possess the largest portion of the resources of civilization in every free society will always control. This bill, as I take it, is an attempt to organize the people who do not possess property, the people who are not educated, the people who were recently held in slavery, the people who are still unfortunately in a great measure uneducated, so as to cast their vote against the property and the intelligence and the civilization which should possess the land.

Here is a commingling of propositions. No one will dispute that intelligence and virtue are necessary to the maintenance of republican institutions or that, other things being equal, intelligence will prevail over ignorance. But I deny the proposition that it is the theory of republican government that the most intelligent and most virtuous or wealthy shall rule. The theory of republican government is that those admitted by the constitution and laws to have a voice in control of the government are equal, and that the vote of the college president and the unlettered man, of the millionaire and the day laborer, of the moral and immoral (if not disfranchised for crime), are equal in their effect, and that the will of the majority legally expressed controls.

In a republic, so far as political rights are concerned, there is no aristocracy of learning, of wealth, or even of virtue. Only the eye of Omniscience can discern true character. So far as intelligence and morality commend men to their fellow-citizens and secure their suffrages voluntarily, no one objects to the proposition of the Senator. But whenever one class of citizens can say to another class of citizens entitled in a republican government to the elective franchise: "I am intelligent and you are ignorant; I am wealthy and you are poor;" or "I am holier than thou and I will do your voting for you, and you shall not vote;" that government is no longer, in fact, a republican government. The last sentence of the statement—

> This bill, as I take it, is an attempt to organize the people who do not possess property, the people who are not educated, the people who were recently held in slavery, the people who are still unfortunately in a great measure uneducated, so as to cast their vote against the property and the intelligence and the civilization which should possess the land—

tells the whole story, and, in my judgment, is a confession of the existence of causes necessitating the proposed legislation. The Senator says, in substance, that it is an attempt to organize the colored vote that they object to.

But there is no proposition in the pending bill to organize this vote. Elections are to be conducted by the judges appointed by the State, and the supervision provided by this bill is only such as is necessary to prevent frauds and punish crimes against the right of suffrage. The real objection to this bill is that when the colored voters believe that they will be safe from personal violence and that their votes will be registered and counted they will organize and vote, the majority will govern, and then the rule of the minority, which now prevails in the Southern States, will be overthrown.

A cardinal principle of republican government is equality of right between all citizens. "We hold these truths to be self-evident," declared the fathers of the Republic, "that all men are created equal, and endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness." To seek a home where these rights might be enjoyed, the Pilgrim fathers braved the perils of the sea and the still greater perils of pioneer life on the shores of the New World, and here laid in the simple republican civil government which they established for themselves the foundation of the system of government which, after the Independence of the colonies had been secured by the sacrifices and blood of their citizens, was formulated into written constitutions.

The present situation is largely, if not wholly, the result of the existence of slavery in this country, an institution under which one man became the unconditional chattel of another, and which has been not inaptly called "the sum of all villainies," an institution which, wherever it has existed and in whatever form, has been the outgrowth of man's cupidity and inhumanity. Its influence has been to develop the baser passions of the enslaved and enslaver, to blunt human sympathies, to dull the instincts of humanity, and to destroy the sense of right and justice which recognizes one common fatherhood of the race.

When the Federal Constitution was adopted, in certain States of the Union slavery existed. It was contrary to the spirit of the Declaration of Independence and of republican government. And that fact was recognized by the framers of the Constitution. It would be unprofitable to discuss the questions as to who were responsible for the existence of slavery in this country, as to whether emancipation of slaves was justified, or as to whether it was wise to make the freedmen citizens and voters. Slavery is dead. It expired in the midst of civil war. Its death was caused by its own friends and it is forever prohibited in the Republic by the Constitution.

The former slaves are citizens entitled to vote, and the Constitution prohibits their disfranchisement "on account of race, color, or previous condition." The political rights conferred upon them will not be withdrawn. The representation based on the colored population, both in Congress and in the Electoral College, if proposed to be withdrawn, would not be relinquished by the South. The ancestors of the negro race in this country were stolen from their native country, torn from their families, and brought to this country as slaves. Over two hundred and fifty years they and their descendants under the lash sweated and toiled to support their masters in idleness and luxury. Becoming insolent with the untrammeled exercise of power, their masters brooked no opposition. They carried with them everywhere they went, even into the Congress of the United States, the manners of the plantation.

A Senator on this floor was stricken down with a bludgeon because he dared to denounce the slavery system, the laboring men of the North were characterized as mudsills of society, and the roll call of slaves beneath Bunker Hill monument was threatened. For years the slave power dominated in the Government, and when at last a majority of the people decreed its downfall and that the advance of slavery should be stayed, and when Abraham Lincoln was elected President of the United States, the slaveholding power determined to destroy the union. This mad step caused the destruction of slavery. A race of slaves born on our soil, knowing no other country but this, were made freemen and citizens and given the ballot. No legislation of the States or of the United States can deny or abridge their right to vote for State or Federal offiers for causes not equally applicable to citizens of every race, color, and previous condition.

And yet in some States they do not vote, as a rule, and if their right to do so is not denied the exercise of the right is prevented. To remedy this wrong in some measure is the object of the pending bill.

The ballot is the foundation of free institutions, the medium through which the sovereign people, in theory at least, control and give direction to the Government. Whenever any portion of the voting population is deprived of their right to vote, as secured to them by the Constitution and laws, the principles of republican government are violated, and that government is no longer a government of the people, but a government of a class.

In all the States under Republican control the right of suffrage is freely enjoyed by all who are entitled to it. There is no complaint from Maine, or Massachusetts, or Oregon that citizens are deprived of their rights at the ballot box. But in every election in recent years in many of the Southern States under Democratic control, colored voters have either been kept away from the polls by violence and intimidation or their votes when deposited have been destroyed or fraudulently counted. The political leaders in the South defiantly declare that they will never submit to allow their elections to be controlled by colored voters. The South is to-day controlled by the same spirit that ruled it before the war, with increased power in the House of Representatives and the Electoral College on account of the colored vote, which is effectually suppressed.

It believes in cheap labor and free trade, the same beliefs which caused South Carolina to attempt to nullify the laws in 1832 and made slavery and free trade the chief cornerstone of the Confederacy. When the last national Republican convention assembled in Chicago things had wonderfully changed since the war. The South was again "in the saddle." With the exception of one or two States in the South, the constitutions and laws conferring the right of suffrage on colored citizens were openly and defiantly nullified. Nowhere was the colored citizen allowed to vote or allowed to have his vote counted when it would elect a Republican.

The Republican party in national convention met the question squarely in its platform, reaffirming its devotion to the national Constitution, the Union of the States, the autonomy reserved to the States under the Constitution, the preservation of the personal rights and liberties of all citizens in all the States and Territories, asserting that it is "the supreme and sovereign right of every lawful citizen, rich or poor, native or foreign born, white or black, to cast one free ballot in public elections and to have that ballot duly counted," and demanding "effective legislation to secure the integrity and purity of elections."

I believe this Southern question had quite as much to do with the result of the last Presidential election as the tariff question. The people of this country, alarmed at the condition of affairs in the South, by the fact that the old ruling element of the South controlled the administration and the House and largely the patronage of the Government, and shocked to see the Government largely represented in foreign countries by men who bore a distinguished part in the effort to destroy the Union, determined to take the Republican party at its word and give it an opportunity to enact effective legislation to secure the "integrity and purity of elections."

The House of Representatives, faithful to their constituents and mindful of their pledges, has passed such a measure, and it remains to be seen whether the majority of the Senate will be equally faithful and redeem the promise contained in the national platform at the last Presidential election.

Senators on the other side of the Chamber have on several occasions during this discussion reminded us of the result of the recent Congressional elections, referring to it as a popular verdict against the bill under consideration. No doubt a variety of causes contributed to the Democratic victory, but there is, I think, no ground to suppose that the Federal elections bill was an important cause or had any influence whatever in producing the result. The bill, while it had passed the House of Representatives, had not been under consideration by the Senate and there was at the time the elections were held no certainty that it ever would be.

But there can be no dispute that the race question in the South had a great, if not a controlling, influence in the elections of 1888, and that the promise of the party, if placed in power, to enact legislation for securing a free ballot and a fair count was the inducement which led the people of the United States to repudiate the Democratic party, to retire the Democratic Administration, and to place the Republican party in power. Whatever may be said of the next Congress, the present Congress is pledged by its party platforms, as well as by the declarations of its leaders and speakers, to enact such constitutional legislation as shall secure to every American citizen his right to vote.

If this nation continues to exist as a republic, if we remain a free people, the South must accept the results of the war, including the freedom, citizenship, and enfranchisement of the former slaves, and must accept the proposition that within our borders and beneath our common flag political equality between citizens is the common heritage. No general disregard of the equal rights of a class of citizens can long prevail. Before emancipation it was declared by statesmen who were accused of stirring up sectional strife that there was an "irrepressible conflict" between freedom and slavery and that the nation must either be all free or all slave.

I wish to say that I fully appreciate the difficulties of the situation in the South. I make the allowance in my estimate of the conduct of the Southern people which circumstances appear to require. Human nature is much the same the world over. But because the situation is difficult it does not follow that the solution must not be in accordance with law and justice. In fact, no other permanent solution is possible. Whether it takes five years or fifty years, there will not be permanent peace or real progress in the South until every citizen qualified as a voter is freely permitted to vote and his vote is fairly counted. The colored citizen of the South will be continually demanding the exercise of his political rights, and there will always be a party in the North with conscience enough to demand it for him. If it were possible that

this demand should cease, there would be little left of our republican institutions worth saving. The right of political self-preservation would be surrendered.

Gentlemen talk about the peaceful relations between the white and black race in the South and the hopeful outlook for reconciliation and harmony. But let no man be deceived. The fancied peace is the lull which precedes a storm. Where all citizens are equal in right to select their rulers and to govern, there can be no real peace where a minority, by force or by fraud, by a violation of law, stamps out the rights of majorities. The peace is a forced peace, and the fires are smoldering under every such government, whether in the States of the Federal Union or elsewhere, which are destined to ignite the explosive that shall upheave and overthrow it.

The same sense of justice, the same belief in the inalienable rights of man which caused the people of the North to determine that slavery should not be extended to the free Territories, which made a conflict between the proslavery and antislavery element inevitable, still exists, and, though there may exist an apathy to-day on the subject, in the nature of things it can not last. This nation owes protection to every citizen who owes allegiance to it, and every citizen to some extent is morally bound to see that such protection is given. No great wrong to any considerable number of citizens of the nation can for any great length of time go unredressed, where the power exists to redress it, without the Government meriting and receiving condemnation at home and contempt abroad.

It was my good fortune to hear the last public speech ever made by that able, fearless, and eloquent advocate of human rights, the late lamented Senator Morton. I was at Salem, in the State of Oregon, on the occasion when he visited that place with the Senate Committee charged with the investigation of the election of Senator Grover, of my State. His affliction, which compelled him to speak from a sitting posture, and his great earnestness made his speech very expressive. I was much interested in that portion of it which referred to the political persecutions of the colored citizens in the South, and especially in his assertion, in substance, that no people could afford to suffer any class of its citizens to be oppressed, that the oppressors of to-day may become the oppressed of to-morrow, and that the cause of liberty demands that we should insist upon equal rights for every class.

The opponents of this bill insist in one breath that it is not true that colored citizens in the South are deprived of their right to vote and have their votes counted and proceed in the next to present arguments to justify the suppression of the colored vote. They allege that the negro is inferior to the whites; that he is not qualified for the exercise of the elective franchise; that he is incapable of conducting large business enterprises; that the white race is the governing race and is entitled to govern by reason of its superior wealth, intelligence, and virtue. They claim that the control of the State governments when the exercise of the right to vote was secured to the colored man was disastrous to good government; that the public funds were squandered, the debts of the States increased, and taxation oppressive, the purpose of all which is not apparent unless it is intended as a justification of the methods by which Republican rule in the South was overthrown and the domination of the minority established and maintained. They assert that the white people of the South will never submit to the domination of the colored race; that in the States in which colored citizens are in the majority they will not be permitted to control public affairs, and assert that the people of the North would not, under similar circumstances, submit to be outvoted by colored voters.

The question before the Senate is not as to the fitness of colored citizens to exercise the elective franchise. No question is involved in this discussion as to the superior intelligence, wealth, or morality of the white people of the South.

There is no proposition to confer upon colored citizens any rights to participate in the government of the States or the nation. Their rights are already fixed by the supreme law of the land. The States are powerless to deprive them of such rights.

The only question raised by this bill is whether the United States, having the power and having pledged its faith to protect them in the exercise of their rights, shall do it, or shall, for the reasons advanced by Senators on the other side of the Chamber, allow the Constitution and laws of the United States to be violated, the power of the United States defied, and a government of force, a government of a minority, to be maintained by the violent and fraudulent deprivation of the most sacred rights of its citizens.

The Senator from Mississippi [Mr. GEORGE], in his recent speech, presented an interesting review of the history of the Federal Constitution in the constitutional convention and of its ratification by the States, but its pertinence to the questions under consideration was, to say the least, remote. There was nothing presented concerning the adoption of the Constitution by the convention or by the States to show that the power conferred upon Congress to make or alter regulations for the election of Representatives in Congress was not intended and understood to be as full as the natural import of the language used will warrant. And the fact that some of the States at the time of ratifying the Constitution recommended amendments to it in the manner provided by the instrument itself, among which was one providing that the power of Congress to make and alter regulations for the election of Representatives should only be exercised under certain conditions and limitations, shows that the meaning and effect of the provision in question were fully understood by the ratifying States and were supposed to confer upon Congress the power claimed for it by the friends of this bill. Several of the amendments recommended were submitted to and ratified by the States, but the provision in question remained unchanged.

During the First Congress under the Constitution twelve of the amendments recommended by the States were by joint resolution of Congress submitted to the States and ten of them ratified. But the amendment proposed by the States to section 4 of Article I was not submitted.

By a joint resolution of the Senate and House of Representatives of the United States in Congress assembled (two-thirds of the two Houses concurring), passed at the first session of the First Congress under the Constitution, as I have said, twelve amendments were submitted to the States for their ratification. Two of them were rejected; ten of them were adopted and are the first ten amendments to the Federal Constitution. The two rejected were as follows:

ART. I. After the first enumeration required by the first article of the Constitution, there shall be 1 Representative for every 30,000, until the number shall amount to 100, after which, the proportion shall be so regulated by Congress that there shall not be less than 100 Representatives, nor less than 1 Representative for every 40,000 persons, until the number of Representatives shall amount to 200, after which the proportion shall be so regulated by Congress that there shall not be less than 200 Representatives, nor more than 1 Representative for every 50,000 persons.

ART. II. No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

The Senator from Vermont [Mr. EDMUNDS] says the last one should have been adopted, and I agree with him in that suggestion.

To bring these amendments before the House of Representatives, Mr. Madison, in June, 1789, moved that the House resolve itself into Committee of the Whole for the purpose of considering amendments to the Federal Constitution, and in a speech in which he supported that motion he stated the amendments which had occurred to him should be submitted to the States for ratification. I will ask the Secretary to assist me by reading from the record of the proceedings of the House of Representatives what I have marked, as it will be a contribution to the already interesting history of the matter presented to the Senate by the Senator from Mississippi [Mr. GEORGE].

The Secretary read as follows:

Mr. Madison said:

"The amendments which have occurred to me proper to be recommended by Congress to the State Legislatures are these:

"First. That there be prefixed to the Constitution a declaration that all power is originally vested in and consequently derived from the people.

"That Government is instituted and ought to be exercised for the benefit of the people, which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety.

"That the people have an indubitable, unalienable, and indefeasible right to reform or change their government whenever it be found adverse or inadequate to the purposes of its institution.

"Secondly. That in Article I, section 2, clause 3, these words be struck out, to wit: 'The number of Representatives shall not exceed 1 for every 30,000, but each State shall have at least one Representative, and until such enumeration shall be made;' and that in place thereof be inserted these words, to wit: 'After the first actual enumeration there shall be 1 Representative for every 30,000, until the number amounts to ——, after which the proportion shall be so regulated by Congress that the number shall never be less than ——, nor more than ——, but each State shall, after the first enumeration, have at least two Representatives; and prior thereto.'

"Thirdly. That in Article I, section 6, clause 1, there be added to the end of the first sentence these words, to wit: 'But no law varying the compensation last ascertained shall operate before the next ensuing election of Representatives.'

"Fourthly. That in Article I, section 9, between clauses 3 and 4, be inserted these clauses, to wit:

"'The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

"'The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

"'The people shall not be restrained from peacefully assemblying and consulting for their common good; nor from applying to the Legislature by petitions, or remonstrances, for redress of their grievances.

"'The right of the people to keep and bear arms shall not be infringed, a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.

"'No soldier shall in time of peace be quartered in any house without the consent of the owner; nor at any time, but in a manner warranted by law.

"'No person shall be subject, except in cases of impeachment, to more than one punishment or one trial for the same offense; nor shall he be compelled to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor be obliged to relinquish his property, where it may be necessary for public use, without a just compensation.

"'Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

"'The rights of the people to be secured in their persons, their houses, their papers, and their other property from all unreasonable searches and seizures shall not be violated by warrants issued without probable cause, [un]supported by oath or affirmation, or not particularly describing the places to be searched or the persons or things to be seized.

"'In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the cause and nature of the accusation, to be confronted with his accusers and the witnesses against him, to have a compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

"'The exceptions here or elsewhere in the Constitution made in favor of

particular rights shall not be so construed as to diminish the just importance of other rights retained by the people or as to enlarge the powers delegated by the Constitution, but either as actual limitations of such powers or as inserted merely for greater caution.'

"Fifthly. That, in Article I, section 10, between clauses 1 and 2, be inserted this clause, to wit:

"'No State shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.'

"Sixthly. That, in Article III section 2, be annexed to the end of clause 2, these words, to wit:

"'But no appeal to such court shall be allowed where the value in controversy shall not amount to —— dollars; nor shall any fact triable by jury, according to the course of common law, be otherwise re-examinable than may consist with the principles of common law.'

"Seventhly. That in Article III, section 2, the third clause be struck out, and in its place be inserted the clauses following, to wit:

"'The trial of all crimes (except in cases of impeachments, and cases arising in the land or naval forces, or the militia when on actual service, in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, of the right of challenge, and other accustomed requisites; and in all crimes punishable with loss of life or member, presentment or indictment by a grand jury shall be an essential preliminary, provided that in cases of crimes committed within any county which may be in possession of an enemy, or in which a general insurrection may prevail, the trial may by law be authorized in some other county of the same State, as near as may be to the seat of the offense.

"'In cases of crimes committed not within any county the trial may by law be in such county as the laws shall have prescribed. In suits at common law, between man and man, the trial by jury, as one of the best securities to the rights of the people, ought to remain inviolate.'

"Eighthly. That immediately after article 6 be inserted, as Article VII, the clauses following, to wit:

"'The powers delegated by this Constitution are appropriated to the departments to which they are respectively distributed; so that the legislative department shall never exercise the powers vested in the executive or judicial, nor the executive exercise the powers vested in the legislative or judicial, nor the judicial exercise the powers vested in the legislative or executive departments.

"'The powers not delegated by this Constitution nor prohibited by it to the States are reserved to the States respectively.'

"Ninthly. That Article VII be numbered as Article VIII."

Mr. DOLPH. Mr. President, it will be observed that among these amendments proposed by Mr. Madison there was no proposition to amend section 4 of Article I.

Mr. HOAR. When was that done?

Mr. DOLPH. They were submitted to the House in a speech by Mr. Madison during the first session of the First Congress upon a motion that the House should resolve itself into Committee of the Whole for the consideration of amendments to the Federal Constitution. The recommendation of some of the States that that section should be amended did not escape the attention of the House. Mr. Tucker insisted that all the amendments which had been recommended by the several States should be considered by the House, and he moved, in August, 1789, that certain propositions of amendment to the Constitution of the United States be referred to the Committee of the Whole House, to wit (I will not read all, but only the one relating to the section of the Constitution under consideration):

Section 4, clause 1: Strike out the words "but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

I judge from the context of these several proposed amendments that they embraced all the amendments which had been proposed by the States that were not already before the House in Committee of the Whole.

I quote further from the record of the proceedings of the House of Representatives of the same day:

On the question, "Shall the said propositions of amendments be referred to the consideration of a Committee of the Whole House?" it was determined in the negative.

It will be seen that the House of Representatives deliberately rejected the amendment, which had been recommended by some of the States that ratified the Constitution, to the article in question, section 4 of Article I of the Constitution.

This provision of the Constitution is therefore to-day the supreme law of the land, and it is for the courts to interpret it in accordance with the time-honored canons of construction. This construction has been made by the Supreme Court of the United States, and Congress has given it a practical construction by exercising its power to legislate under it.

The Senator from Mississippi also discussed at length the constitutional power of Congress to enact such a bill as the pending measure. I listened to his speech, as I always listen to him when he discusses legal questions, with interest, because, however widely I may differ with him, his positions are always stated with a clearness and terseness which render a legal argument, although on the wrong side of a question, interesting to a lawyer.

So far as the questions discussed by the Senator related to the power of the Federal Government to take control of elections for Representatives in Congress and to certify the result, I should disagree with him if they were open questions, but they are not. The section of the Constitution under which the power of Congress to pass the bill under consideration is claimed has been construed by the tribunal provided by the Constitution for that purpose, and whose decision is final and conclusive upon every department of the Federal and State governments.

By section 2 of Article I of the Constitution the qualifications of electors for Representatives are prescribed. It is provided that they shall have the "qualifications requisite for electors of the most numerous branch of the State Legislature," leaving it within the power of the State Legislatures to fix indirectly the qualifications of electors for Representatives by fixing the qualifications for electors of the most numerous branch of the State Legislature.

Then follows, pertinent to the subject, section 4 of the same article:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.

Here is plenary power to the States, until Congress shall act, to fix the times, the places, and the manner of holding such elections, but by the next clause it is provided that—

The Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

"At any time," not when some great emergency shall arise, not when it shall be deemed by Congress unsafe to leave the power with the Legislatures of the States, but at any time the Congress of the United States may exercise the power to fix the times, the places, and to provide the manner of the election of Representatives and the times and manner of the election of Senators.

No one will contend that because the power conferred upon Congress under this section has not been heretofore fully exercised—and we have heard a great deal about that from the other side of the Chamber—Congress has lost its right to enact the legislation it is authorized to enact under it.

The number of Senators was fixed by the Constitution itself.

These provisions cover the whole subject of elections to both branches of Congress, the legislative body of the Union. The Legislatures of the States are authorized to legislate fully upon the subject, and when they legislate the laws which they enact are regulations to control the election, but the provision that Congress may make or alter these regulations is a provision that Congress may exercise all the powers which the States themselves could exercise without the interference of Congress. One is just as broad as the other.

The basis of representation was provided for also by section 2 of Article I of the Constitution, which is as follows:

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

Meaning, of course, by all other persons the slaves. After slavery had been abolished the Constitution was amended in this particular by section 2 of Article XIV, which provides that—

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

It was said on yesterday by the Senator from Alabama [Mr. MORGAN] that the inducement to the adoption of the last portion of this section was to prevent the disfranchisement of the colored citizens of the United States on account of their color, their race, or their previous condition; but, whatever the inducement was that led to its enactment, it provides qualifications for voters, namely, that they shall be inhabitants of the State, twenty-one years of age, and citizens of the United States, which can not be abridged or denied by the States, "except for participation in rebellion or other crime," without a loss of representation in the House of Representatives.

As I stated the other day, by the fifteenth amendment Congress provided that neither the United States nor the States should deny or abridge the right of citizens of the United States to vote on account of race, color, or previous condition of servitude. But there is room between the provisions of the two sections for State action; the only prohibition upon the States as to the qualifications which they may provide for electors is that which is contained in the fifteenth amendment. They may require other qualifications permitted under section 2 of the fourteenth article of amendments and not prohibited by the fifteenth amendment; but when they do, it is as clear as anything can be that their basis of representation in the House of Representatives shall be decreased.

While I am upon this subject I desire to direct attention a little more carefully than I did the other day to the new constitution of the State of Mississippi. I had read from the desk article 12 of that constitution, relating to the franchise. Section 249, a part of that article, is as follows:

No one shall be allowed to vote for members of the Legislature or other officers who has not been duly registered under the constitution and laws of this State by an officer of this State, legally authorized to register the voters thereof. And registration under the constitution and laws of this State by the proper officers of this State is hereby declared to be an essential and necessary qualification to vote at any and all elections.

The convention were not satisfied with stating the proposition once, but repeated it.

Section 244 is as follows:

On and after the 1st day of January, A. D. 1892, every elector shall, in addition to the foregoing qualifications, be able to read any section of the constitution of this State, or he shall be able to understand the same when read to him, or give a reasonable interpretation thereof. A new registration shall be made before the next ensuing election after January 1, A. D. 1892.

It will be observed that this educational qualification is different from that which is found in any other State constitution. If the convention had stopped with the requirement that electors should be able to read any section of the constitution, there would have been some way to ascertain how many citizens of the United States were disqualified under that provision, although the question whether a citizen could satisfactorily read the constitution would still have been left arbitrarily to the register appointed under the laws of the State. He could have said, and would have had power to declare, that a very poor reader, if the color of his skin was white and he was a Democrat, could read the constitution, but that a very good reader, if the color of his skin was black or his politics Republican, could not read it.

But, repeating words which we have heard upon the other side of the Chamber to-day, this provision is a "cunningly devised scheme" to prevent the registration of voters who do not vote as the controlling element in the State thinks they should vote. It is provided that if they can not read the constitution they shall be able to understand it when it is read to them or be able to give a satisfactory interpretation of it, according to the judgment, as just suggested by the Senator from Vermont near me [Mr. EDMUNDS], of the register, the State officer who is appointed for the purpose, with no supervisory control over him, and who, as is suggested by the Senator from Massachusetts [Mr. HOAR], is not himself required to be qualified to understand the constitution.

Suppose that a colored citizen is unable to read the constitution of the State of Mississippi; does anyone believe that a register appointed under the laws of the State of Mississippi, enacted by the ruling element there now, will ever find him intelligent enough to be able to understand the constitution or to give a reasonable interpretation to him of it?

On the other hand, what is this provision put in for? So that if a white voter is unable to read the constitution the register may declare he understands it when it is read to him or can interpret it. Talk about cunningly devised schemes to enable a minority to rule the majority! That provision of the Mississippi constitution would be worthy of Mr. Davenport, if Mr. Davenport were all that he has been painted on this floor to-day, and, as suggested by the Senator from Massachusetts, this remarkable constitution, this remarkable scheme, can be applied in the same way to Republicans who have white skins, and there is not much likelihood of one of them who can not read the constitution to the satisfaction of the registrar ever being able to understand it and interpret it to his satisfaction.

Mr. EDMUNDS. The other side say that we do not ourselves understand the Constitution on this side.

Mr. DOLPH. That is true. That is what they say. But I propose to show directly that, if we do not, the Supreme Court of the United States do not understand the Constitution.

Mr. HOAR. Then they could not vote in Mississippi.

Mr. DOLPH. No. I undertake to say that unless Republicans are found to understand constitutional questions better than my friend from Mississippi [Mr. GEORGE], who has been discussing such questions, they would never be able to interpret the Constitution satisfactorily to a Mississippi register.

I call attention to what the Supreme Court has said concerning the meaning of the section of the Constitution under consideration and as to the power of Congress to enact such legislation as is proposed by this bill. In *Ex parte* Siebold, 100 United States Reports, page 371, Mr. Justice Bradley delivered the opinion of the court. I read from the syllabus:

8. In making regulations for the election of Representatives it is not necessary that Congress should assume entire and exclusive control thereof. By virtue of that clause of the Constitution which declares that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators," Congress has a supervisory power over the subject, and may either make entirely new regulations, or add to, alter, or modify the regulations made by the State.

9. In the exercise of such supervisory power, Congress may impose new duties on the officers of election, or additional penalties for breach of duty, or for the perpetration of fraud, or provide for the attendance of officers to prevent frauds and see that the elections are legally and fairly conducted.

10. The exercise of such power can properly cause no collision of regulations or jurisdiction, because the authority of Congress over the subject is paramount, and any regulations it may make necessarily supersede inconsistent regulations of the State. This is involved in the power to make or alter.

11. There is nothing in the relation of the State and the national sovereignties to preclude the co-operation of both in the matter of elections of Representatives. If both were equal in authority over the subject, collisions of jurisdiction might ensue; but, the authority of the National Government being paramount, collisions can only occur from unfounded jealousy of such authority.

12. The provision which authorizes the deputy marshals to keep the peace at the elections is not unconstitutional. The National Government has the right to use physical force in any part of the United States to compel obedience to its laws and to carry into execution the powers conferred upon it by the Constitution.

13. The concurrent jurisdiction of the National Government with that of the States, which it has in the exercise of its powers of sovereignty in every part of the United States, is distinct from that exclusive jurisdiction which it has by the Constitution in the District of Columbia and in those places acquired for the erection of forts, magazines, arsenals, etc.

Speaking of this power, Mr. Justice Bradley, in delivering the opinion of the court, said:

It must be conceded to be a most important power and of a fundamental character. In the light of recent history and of the violence, fraud, corruption, and irregularity which have frequently prevailed at such elections, it may easily be conceived that the exertion of the power, if it exists, may be necessary to the stability of our form of government.

Speaking about the conflict that may arise between the Federal and State authorities, he said:

As to the supposed conflict that may arise between the officers appointed by the State and National Governments for superintending the election, no more insuperable difficulty need arise than in the application of the regulations adopted by each respectively. The regulations of Congress being constitutionally paramount, the duties imposed thereby upon the officers of the United States, so far as they have respect to the same matters, must necessarily be paramount to those to be performed by the officers of the State. If both can not be performed, the latter are *pro tanto* superseded and cease to be duties. If the power of Congress over the subject is supervisory and paramount, as we have seen it to be, and if officers or agents are created for carrying out its regulations, it follows as a necessary consequence that such officers and agents must have the requisite authority to act without obstruction or interference from the officers of the State.

No greater subordination, in kind or degree, exists in this case than in any other. It exists to the same extent between the different officers appointed by the State, when the State alone regulates the election. One officer can not interfere with the duties of another or obstruct or hinder him in the performance of them. Where there is a disposition to act harmoniously, there is no danger of disturbance between those who have different duties to perform. When the rightful authority of the General Government is once conceded and acquiesced in, the apprehended difficulties will disappear. Let a spirit of national, as well as local, patriotism once prevail, let unfounded jealousies cease, and we shall hear no more about the impossibility of harmonious action between the national and State governments in a matter in which they have a mutual interest.

As to the supposed incompatibility of independent sanctions and punishments imposed by the two governments for the enforcement of the duties required of the officers of election and for their protection in the performance of those duties, the same considerations apply. While the State will retain the power of enforcing such of its own regulations as are not superseded by those adopted by Congress, it can not be disputed that if Congress has power to make regulations it must have the power to enforce them, not only by punishing the delinquency of officers appointed by the United States, but by restraining and punishing those who attempt to interfere with them in the performance of their duties; and if, as we have shown, Congress may revise existing regulations, and add to or alter the same as far as it deems expedient, there can be as little question that it may impose additional penalties for the prevention of frauds committed by the State officers in the elections, or for their violation of any duty relating thereto, whether arising from the common law or from any other law, State or national. Why not? Penalties for fraud and delinquency are part of the regulations belonging to the subject. If Congress, by its power to make or alter the regulations, has a general supervisory power over the whole subject, what is there to preclude it from imposing additional sanctions and penalties to prevent such fraud and delinquency?

It is objected that Congress has no power to enforce State laws or to punish State officers, and especially has no power to punish them for violating the laws of their own State. As a general proposition, this is undoubtedly true; but when, in the performance of their functions, State officers are called upon to fulfill duties which they owe to the United States as well as to the State, has the former no means of compelling such fulfillment? Yet that is the case here. It is the duty of the States to elect Representatives to Congress. The due and fair election of these Representatives is of vital importance to the United States.

The Government of the United States is no less concerned in the transaction than the State government is. It certainly is not bound to stand by as a passive spectator when duties are violated and outrageous frauds are committed. It is directly interested in the faithful performance by the officers of election of their respective duties. Those duties are owed as well to the United States as to the State. This necessarily follows from the mixed character of the transaction, State and national. A violation of duty is an offense against the United States for which the offender is justly amenable to that Government. No official position can shelter him from this responsibility.

In view of the fact that Congress has plenary and paramount jurisdiction over the whole subject, it seems almost absurd to say that an officer who receives or has custody of the ballots given for a Representative owes no duty to the National Government which Congress can enforce or that an officer who stuffs the ballot box can not be made amenable to the United States. If Congress has not, prior to the passage of the present laws, imposed any penalties to prevent and punish frauds and violations of duty committed by officers of election, it has been because the exigency has not been deemed sufficient to require it, and not because Congress had not the requisite power.

The objection that the laws and regulations, the violation of which is made punishable by the acts of Congress, are State laws and have not been adopted by Congress, is no sufficient answer to the power of Congress to impose punishment. It is true that Congress has not deemed it necessary to interfere with the duties of the ordinary officers of election, but has been content to leave them as prescribed by State laws. It has only created additional sanctions for their performance, and provided means of supervision in order more effectually to secure such performance. The imposition of punishment implies a prohibition of the act punished. The State laws which Congress sees no occasion to alter, but which it allows to stand, are in effect adopted by Congress. It simply demands their fulfillment. Content to leave the laws as they are, it is not content with the means provided for their enforcement. It provides additional means for that purpose; and we think it is entirely within its constitutional power to do so. It is simply the exercise of the power to make additional regulations.

That the duties devolved on the officers of election are duties which they owe to the United States as well as to the State is further evinced by the fact that they have always been so regarded by the House of Representatives itself. In most cases of contested elections the conduct of these officers is examined and scrutinized by that body as a matter of right; and their failure to perform their duties is often made the ground of decision. Their conduct is justly regarded as subject to the fullest exposure, and the right to examine them personally and to inspect all their proceedings and papers has always been maintained. This could not be done if the officers were amenable only to the supervision of the State government which appointed them.

Another objection made is that, if Congress can impose penalties for violation of State laws, the officer will be made liable to double punishment for delinquency, at the suit of the State and at the suit of the United States. But the answer to this is that each government punishes for violation of duty to itself only. Where a person owes a duty to two sovereigns, he is amenable to both for its performance, and either may call him to account. Whether punishment

inflicted by one can be pleaded in bar to a charge by the other for the same identical act need not now be decided, although considerable discussion bearing upon the subject has taken place in this court, tending to the conclusion that such a plea can not be sustained.

In reference to a conviction under a State law for passing counterfeit coin, which was sought to be reversed on the ground that Congress had jurisdiction over that subject and might inflict punishment for the same offense, Mr. Justice Daniel, speaking for the court, said:

"It is almost certain that, in the benignant spirit in which the institutions both of the State and Federal systems are administered, an offender who should have suffered the penalties denounced by the one would not be subjected a second time to punishment by the other for acts essentially the same; unless, indeed, this might occur in instances of peculiar enormity or where the public safety demanded extraordinary rigor. But, were a contrary course of policy or action either probable or usual, this would by no means justify the conclusion that offenses falling within the competency of different authorities to restrain or punish them would not properly be subjected to the consequences which those authorities might ordain and affix to their perpetration." (Fox *vs.* The State of Ohio, 5 How., 410.)

The same judge, delivering the opinion of the court in the case of United States *vs.* Marigold (9 How., 569), where a conviction was had under an act of Congress for bringing counterfeit coin into the country, said, in reference to Fox's case: "With the view of avoiding conflict between the State and Federal jurisdictions, this court, in the case of Fox *vs.* State of Ohio, have taken care to point out that the same act might, as to its character and tendencies, and the consequences it involved, constitute an offense against both the State and Federal Governments, and might draw to its commission the penalties denounced by either, as appropriate to its character in reference to each. We hold this distinction sound," and the conviction was sustained.

The subject came up again for discussion in the case of Moore *vs.* State of Illinois, 14 *id.*, 13, in which the plaintiff in error had been convicted under a State law for harboring and secreting a negro slave, which was contended to be properly an offense against the United States under the fugitive slave law of 1793, and not an offense against the State. The objection of double punishment was again raised. Mr. Justice Grier, for the court, said:

"Every citizen of the United States is also a citizen of a State or Territory. He may be said to owe allegiance to two sovereigns and may be liable to punishment for an infraction of the laws of either. The same act may be an offense or transgression of the laws of both."

Substantially the same views are expressed in United States *vs.* Cruikshank, 92 United States, 542, referring to these cases; and we do not well see how the doctrine they contain can be controverted.

A variety of instances may be readily suggested, in which it would be necessary or proper to apply it. Suppose, for example, a State judge having power under the naturalization laws to admit aliens to citizenship should utter false certificates of naturalization, can it be doubted that he could be indicted under the act of Congress providing penalties for that offense, even though he might also, under the State laws, be indictable for forgery as well as liable to impeachment? So, if Congress, as it might, should pass a law fixing the standard of weights and measures and imposing a penalty for sealing false weights and false measures, but leaving to the States the matter of inspecting and sealing those used by the people, would not an offender, filling the office of sealer under a State law, be amenable to the United States as well as to the State?

If the officers of election, in election of Representatives, owe a duty to the United States and are amenable to that Government as well as to the State—as we think they are—then, according to the cases just cited, there is no reason why each should not establish sanctions for the performance of the duty owed to itself, though referring to the same act.

To maintain the contrary proposition, the case of Commonwealth of Kentucky *vs.* Dennison (24 How., 66) is confidently relied on by the petitioner's counsel. But there Congress had imposed a duty upon the governor of the State which it had no authority to impose. The enforcement of the clause in the Constitution requiring the delivery of fugitives from service was held to belong to the Government of the United States, to be effected by its own agents, and Congress had no authority to require the governor of a State to execute this duty.

We have thus gone over the principal reasons of a special character relied on by the petitioners for maintaining the general proposition for which they contend, namely, that in the regulation of elections for Representatives the national and State governments can not co-operate, but must act exclusively of each other; so that, if Congress assumes to regulate the subject at all, it must assume exclusive control of the whole subject. The more general reason assigned, to wit, that the nature of sovereignty is such as to preclude the joint co-operation of two sovereigns, even in a matter in which they are mutually concerned, is not, in our judgment, of sufficient force to prevent concurrent and harmonious action on the part of the national and State governments in the election of Representatives. It is at most an argument *ab inconveniente*. There is nothing in the Constitution to forbid such co-operation in this case. On the contrary, as already said, we think it clear that the clause of the Constitution relating to the regulation of such elections contemplates such co-operation whenever Congress deems it expedient to interfere merely to alter or add to existing regulations of the State. If the two governments had an entire equality of jurisdiction there might be an intrinsic difficulty in such co-operation.

Then the adoption by the State government of a system of regulations might exclude the action of Congress. By first taking jurisdiction of the subject, the State would acquire exclusive jurisdiction in virtue of a well-known principle applicable to courts having co-ordinate jurisdiction over the same matter. But no such equality exists in the present case. The power of Congress, as we have seen, is paramount, and may be exercised at any time and to any extent which it deems expedient, and so far as it is exercised, and no further, the regulations effected supersede those of the State which are inconsistent therewith.

As a general rule it is no doubt expedient and wise that the operations of the State and National Governments should, as far as practicable, be conducted separately in order to avoid undue jealousies and jars and conflicts of jurisdiction and power. But there is no reason for laying this down as a rule of universal application. It should never be made to override the plain and manifest dictates of the Constitution itself. We can not yield to such a transcendental view of State sovereignty. The Constitution and laws of the United States are the supreme law of the land, and to these every citizen of every State owes obedience, whether in his individual or official capacity.

There are very few subjects, it is true, in which our system of government, complicated as it is, requires or gives room for conjoint action between the State and national sovereignties. Generally, the powers given by the Constitution to the Government of the United States are given over distinct branches of sovereignty from which the State governments, either expressly or by necessary implication, are excluded. But in this case expressly, and in some others by implication, as we have seen in the case of pilotage, a concurrent jurisdiction is contemplated, that of the State, however, being subordinate to that of the United States, whereby all questions of precedency are eliminated.

In what we have said it must be remembered that we are dealing only with the subject of elections of Representatives to Congress.

If for its own convenience a State sees fit to elect State and county officers at the same time and in conjunction with the election of Representatives, Congress will not be thereby deprived of the right to make regulations in reference to the latter. We do not mean to say, however, that for any acts of the officers of election, having exclusive reference to the election of State or county officers, they will be amenable to Federal jurisdiction; nor do we understand that the enactments of Congress now under consideration have any application to such acts.

It must also be remembered that we are dealing with the question of power, not of the expediency of any regulations which Congress has made. That is not within the pale of our jurisdiction. In exercising the power, however, we are bound to presume that Congress has done so in a judicious manner; that it has endeavored to guard as far as possible against any unnecessary interference with State laws and regulations, with the duties of State officers, or with local prejudices. It could not act at all so as to accomplish any beneficial object in preventing frauds and violence and securing the faithful performance of duty at the elections without providing for the presence of officers and agents to carry its regulations into effect. It is also difficult to see how it could attain these objects without imposing proper sanctions and penalties against offenders.

The views we have expressed seem to us to be founded on such plain and practical principles as hardly need any labored argument in their support. We may mystify anything. But if we take a plain view of the words of the Constitution and give to them a fair and obvious interpretation, we can not fail in most cases of coming to a clear understanding of its meaning. We shall not have far to seek. We shall find it on the surface, and not in the profound depths of speculation.

The greatest difficulty in coming to a just conclusion arises from mistaken notions in regard to the relations which subsist between the State and National Governments. It seems to be often overlooked that a national constitution has been adopted in this country establishing a real government therein, operating upon persons and territory and things, and which, moreover, is, or should be, as dear to every American citizen as his State government is. Whenever the true conception of the nature of this Government is once conceded no real difficulty will arise in the just interpretation of its powers. But if we allow ourselves to regard it as a hostile organization, opposed to the proper sovereignty and dignity of the State governments, we shall continue to be vexed with difficulties as to its jurisdiction and authority.

No greater jealousy is required to be exercised towards this Government in reference to the preservation of our liberties than is proper to be exercised towards the State governments. Its powers are limited in number and clearly defined; and its action within the scope of those powers is restrained by a sufficiently rigid bill of rights for the protection of its citizens from oppression. The true interest of the people of this country requires that both the national and State governments should be allowed, without jealous interference on either side, to exercise all the powers which respectively belong to them according to a fair and practical construction of the Constitution. State rights and the rights of the United States should be equally respected. Both are essential to the preservation of our liberties and the perpetuity of our institutions. But in endeavoring to vindicate the one we should not allow our zeal to nullify or impair the other.

Before leaving this case I desire to say that I have read from the opinion of the court, but Mr. Justice Clifford and Mr. Justice Field dissented, and Mr. Justice Field's opinion is found on page 404 of the same volume. It will be found upon examination that he did not dissent upon any grounds which at all affects the power of Congress to take entire charge of the election of Representatives to Congress by its own officers.

This same question was before the court again in the case of *Ex parte* Yarborough, 110 United States Reports, page 651. The opinion of the court was delivered by Mr. Justice Miller in his usually strong, terse, and vigorous style. I read from the syllabus:

In construing the Constitution of the United States, the doctrine that what is implied is as much a part of the instrument as what is expressed is a necessity by reason of the inherent inability to put all derivative powers into words.

Section 4 of Article I of the Constitution, which declares that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, but the Congress may at any time make or alter such regulations, except as to the place of choosing Senators," adopts the State qualification as the Federal qualification for the voter; but his right to vote is based upon the Constitution, and not upon the State law, and Congress has the constitutional power to pass laws for the free, pure, and safe exercise of this right.

I quote from the opinion:

That a Government whose essential character is republican, whose executive head and legislative body are both elective, whose most numerous and powerful branch of the Legislature is elected by the people directly, has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud, is a proposition so startling as to arrest attention and demand the gravest consideration.

If this Government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the General Government, it must have the power to protect the elections on which its existence depends from violence and corruption.

If it has not this power it is left helpless before the two great natural and historical enemies of all republics, open violence and insidious corruption.

The proposition that it has no such power is supported by the old argument often heard, often repeated, and in this court never assented to, that when a question of the power of Congress arises the advocate of the power must be able to place his finger on words which expressly grant it. The brief of counsel before us, though directed to the authority of that body to pass criminal laws, uses the same language. Because there is no express power to provide for preventing violence exercised on the voter as a means of controlling his vote, no such law can be enacted. It destroys at one blow, in construing the Constitution of the United States, the doctrine universally applied to all instruments of writing, that what is implied is as much a part of the instrument as what is expressed.

This principle, in its application to the Constitution of the United States, more than to almost any other writing, is a necessity, by reason of the inherent inability to put into words all derivative powers, a difficulty which the instrument itself recognizes by conferring on Congress the authority to pass all laws necessary and proper to carry into execution the powers expressly granted and all other powers vested in the Government or any branch of it by the Constitution. (Article I, section 8, clause 18.)

After referring to the power of Congress to regulate commerce and some other constitutional powers which had been left to the States for years, he continues:

So, also, has the Congress been slow to exercise the powers expressly conferred upon it in relation to elections by the fourth section of the first article of the Constitution—

This section declares that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the

Congress may at any time make or alter such regulations, except as to the place of choosing Senators."

It was not until 1842 that Congress took any action under the power here conferred, when, conceiving that the system of electing all the members of the House of Representatives from a State by general ticket, as it was called—that is, every elector voting for as many names as the State was entitled to Representatives in that House—worked injustice to other States which did not adopt that system and gave an undue preponderance of power to the political party which had a majority of votes in the State, however small, enacted that each member should be elected by a separate district, composed of contiguous territory. (5 Stat., 491.)

And to remedy more than one evil arising from the election of members of Congress occurring at different times in the different States, Congress, by the act of February 2, 1872, thirty years later, required all the elections for such members to be held on the Tuesday after the first Monday in November in 1876 and on the same day of every second year thereafter.

Will it be denied—

The court say—

that it is in the power of that body—

That is, Congress—

to provide laws for the proper conduct of those elections?

That is, of Representatives and Senators—

To provide if necessary the officers who shall conduct them and make return of the result?

I call the attention of Senators who claim that the return of the result is no part of the election, and therefore the provision of this bill which authorizes a return to be made by the officers of the United States is unconstitutional. I read again from the language of this opinion, which I believe is the latest utterance of the Supreme Court upon this question:

Will it be denied that it is in the power of that body to provide laws for the proper conduct of those elections? To provide, if necessary, the officers who shall conduct them and make return of the result? And, especially, to provide in an election held under its own authority for security of life and limb to the voter while in the exercise of this function? Can it be doubted that Congress can by law protect the act of voting, the place where it is done, and the man who votes from personal violence or intimidation, and the election itself from corruption and fraud?

If this be so, and it is not doubted, are such powers annulled because an election for State officers is held at the same time and place? Is it any less important that the election of members of Congress should be the free choice of all the electors because State officers are to be elected at the same time? (*Ex parte* Siebold, 100 U. S., 371.)

These questions answer themselves; and it is only because the Congress of the United States, through long habit and long years of forbeance, has, in deference and respect to the States, refrained from the exercise of these powers that they are now doubted.

But when, in the pursuance of a new demand for action, that body, as it did in the cases just enumerated, finds it necessary to make additional laws for the free, the pure, and the safe exercise of this right of voting, they stand upon the same ground and are to be upheld for the same reasons.

* * * * * * *

This proposition answers also another objection to the constitutionality of the laws under consideration, namely, that the right to vote for a member of Congress is not dependent upon the Constitution or the laws of the United States, but is governed by the law of each State respectively.

If this were conceded, the importance to the General Government of having the actual election—the voting for those members—free from force and fraud is not diminished by the circumstance that the qualification of the voter is determined by the law of the State where he votes. It equally affects the Government; it is as indispensable to the proper discharge of the great function of legislating for that Government that those who are to control this legislation shall not owe their election to bribery or violence, whether the class of persons who shall vote is determined by the law of the State or by the law of the United States, or by their united result.

But it is not correct to say that the right to vote for a member of Congress does not depend on the Constitution of the United States.

The office, if it be properly called an office, is created by that Constitution and that alone. It also declares how it shall be filled, namely, by election.

Its language is:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." (Article I, section 2.)

The States in prescribing the qualifications of voters for the most numerous branch of their own Legislatures do not do this with reference to the electors for members of Congress. Nor can they prescribe the qualification for voters for those *eo nomine*. They define who are to vote for the popular branch of their own Legislature, and the Constitution of the United States says the same person shall vote for members of Congress in that State. It adopts the qualification thus furnished as the qualification of its own electors for members of Congress.

It is not true, therefore, that electors for members of Congress owe their right to vote to the State law in any sense which makes the exercise of the right to depend exclusively on the law of the State.

* * * * * * *

The fifteenth amendment of the Constitution, by its limitation on the power of the States in the exercise of their right to prescribe the qualifications of voters in their own elections, and by its limitation of the power of the United States over that subject, clearly shows that the right of suffrage was considered to be of supreme importance to the National Government and was not intended to be left within the exclusive control of the States. It is in the following language:

"SEC. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

"SEC. 2. The Congress shall have power to enforce this article by appropriation legislation."

While it is quite true, as was said by this court in United States *vs.* Reese (92 U. S., 214), that this article gives no affirmative right to the colored man to vote, and is designed primarily to prevent discrimination against him whenever the right to vote may be granted to others, it is easy to see that under some circumstances it may operate as the immediate source of a right to vote. In all cases where the former slaveholding States had not removed from their constitutions the words "white man" as a qualification for voting, this provision did, in effect, confer on him the right to vote, because, being paramount to the State law and a part of the State law, it annulled the discriminating word "white," and thus left him in the enjoyment of the same right as white persons. And such would be the effect of any future constitutional provision of a State which should give the right of voting exclusively to white people, whether they be men or women. (Neal *vs.* Delaware, 103 U. S., 370.)

In such cases this fifteenth article of amendment does, *proprio vigore*, substantially confer on the negro the right to vote, and Congress has the power to protect and enforce that right.

In the case of United States *vs.* Reese, so much relied on by counsel, this court said, in regard to the fifteenth amendment, that "it has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress. That right is an exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude."

This new constitutional right was mainly designed for citizens of African descent. The principle, however, that the protection of the exercise of this right is within the power of Congress is as necessary to the right of other citizens to vote as to the colored citizen, and to the right to vote in general as to the right to be protected against discrimination.

The exercise of the right in both instances is guarantied by the Constitution and should be kept free and pure by Congressional enactments whenever that is necessary.

* * * * * * *

But it is a waste of time to seek for specific sources of the power to pass these laws. Chancellor Kent, in the opening words of that part of his commentaries which treats of the government and constitutional jurisprudence of the United States, says:

"The Government of the United States was created by the free voice and joint will of the people of America for their common defense and general welfare. Its powers apply to those great interests which relate to this country in its national capacity and which depend for their protection on the consolidation of the Union. It is clothed with the principal attributes of political sovereignty, and it is justly deemed the guardian of our best rights, the source of our highest civil and political duties, and the sure means of national greatness." (1 *Kent's Commentaries* 201.)

It is as essential to the successful working of this Government that the great organisms of its executive and legislative branches should be the free choice of the people as that the original form of it should be so. In absolute governments, where the monarch is the source of all power, it is still held to be important that the exercise of that power shall be free from the influence of extraneous violence and internal corruption.

In a republican government, like ours, where political power is reposed in representatives of the entire body of the people, chosen at short intervals by popular elections, the temptations to control these elections by violence and by corruption is a constant source of danger.

Such has been the history of all republics, and, though ours has been comparatively free from both these evils in the past, no lover of this country can shut his eyes to fear of future danger from both sources.

If the recurrence of such acts as these prisoners stand convicted of are too common in one quarter of the country and give omen of danger from lawless violence, the free use of money in elections, arising from the vast growth of recent wealth in other quarters, presents equal cause for anxiety.

If the Government of the United States has within its constitutional domain no authority to provide against these evils, if the very sources of power may be poisoned by corruption or controlled by violence and outrage without legal restraint, then, indeed, is the country in danger, and its best powers, its highest purposes, the hopes which it inspires, and the love which enshrines it are at the mercy of the combinations of those who respect no right but brute force on the one hand and unprincipled corruptionists on the other.

Can anything be clearer or more emphatic than this decision of the Supreme Court, the tribunal provided by the Constitution itself to construe it judicially?

I cite these opinions of the Supreme Court of the United States in refutation of the arguments which have been made on the other side of this Chamber against the power of Congress to enact this legislation, and, as is suggested to me by the Senator from Vermont [Mr EDMUNDS], on the point of the power of Congress there was no dissent from the opinions of the court.

Having now discussed the power of Congress to enact the legislation proposed by the pending bill, I turn to the other branch of the subject, the necessity for the legislation, not that it is necessary at all to give a reason for the exercise of the power. Congress had the power the very first day that it met in session after the Constitution was adopted to enact just such legislation. It has not lost the power any more than it lost the power to provide for the regulation of interstate commerce by not exercising it for many years. It has the power to-day, and it is for the majority of both branches of Congress to say whether they will exercise the power, and they need not make any excuse or give any reason for doing so. Ordinarily the possession of power by Congress, under the Constitution, to legislate for the protection of its citizens is the measure of its duty.

But I propose to discuss briefly the question whether there are any reasons why Congress should now exercise the power which did not exist during the first years of the country's history.

I do not propose to refer to particular instances of interference with the exercise of the right to vote for Representatives in Congress, which I suppose requires the exercise by Congress of its constitutional powers to supervise Federal elections. It would serve no practical purpose, and I would but be repeating what has been already presented to the Senate. We have listened to the sickening details of Southern outrages in this body. We have read of them in the press of the South. They are described in official reports of public officers and of investigating committees of Congress. There have been more murders of Republicans in the South since the war of the rebellion than there has been on this continent by Indians since it was discovered, and nothing in the annals of Indian cruelties exceeds the brutality of some of the outrages upon colored men there.

In Louisiana, beginning with the Mechanics' Institute masacre of 1866, in which some two hundred persons were killed, General Sheridan estimated in 1875 that thirty-five hundred political murders had been committed since the war. A newspaper in the South a short time since published a list of one hundred and eight murders of colored men in the South within a year.

I am sorry the senior Senator from Louisiana [Mr. GIBSON] is not in his seat—as he challenged some of my statements the other day in regard to the conduct of elections in the South—that he might hear what I have to present. As he is not here I shall simply present, without comment, the matter which I desire to bring before the Senate.

I desire to have inserted in my remarks a letter purporting to be from R. B. Johnson to Maj. Andrew Hero, jr., of New Orleans, dated April 27, 1888. I will not read it all unless it is desired. I will read only the first paragraph, so that its pertinence to this inquiry will be understood.

Mr. GRAY. What is the Senator reading from?

Mr. DOLPH. I read from the remarks made by the Senator from Kansas [Mr. INGALLS] in the Senate of the United States May 1, 1888. This party says:

On Friday morning, between the hours of 1 and 2 o'clock, I was awakened by hearing some one calling at my gate. I did not answer, but quietly jumped out of bed and went to the window, peeped through the blinds to see who was calling me. I knew it was Mr. Tobias Gibson, the brother of Senator RANDALL GIBSON, but to be sure it was him calling me I got up on a chair in my house and peeped through the blinds, as I always keep the upper blind open, and in looking through the opening I saw and recognized Mr. Gibson, and I am sure that it was him who was calling me.

Senators will recollect the statements contained in the rest of the letter as to what was done by the party.

Mr. GRAY. Read it.

Mr. DOLPH. Very well; I will ask the Chief Clerk to read it if any one desires to hear it.

The Chief Clerk read as follows:

On Friday morning, between the hours of 1 and 2 o'clock, I was awakened by hearing some one calling at my gate. I did not answer, but quietly jumped out of bed and went to the window, peeped through the blinds to see who was calling me. I knew it was Mr. Tobias Gibson, the brother of Senator RANDALL GIBSON, but to be sure it was him calling me I got up on a chair in my house and peeped through the blinds, as I always keep the upper blind open, and in looking through the opening I saw and recognized Mr. Gibson, and I am sure that it was him who was calling me. He called me for at least fifteen minutes, but I did not answer. I also recognized Mr. Millard Thomas, the Democratic candidate for the house of representatives, and Mr. John R. Grinnage, also a Democratic candidate for the house of representatives, at the election held April 17, 1888, and several others that I well knew. There were about fifteen or twenty other persons that I did not know.

After failing to answer Mr. Gibson, he said: "Johnson, if you do not come out, I will come in and get you." He then ordered his men to open fire on my house and kill everybody therein; they fired about thirty or forty shots with their Winchester rifles. I returned the fire from inside for the purpose of keeping them from breaking the door and taking me out. They then began firing again and fired about as many shots as before or more; they failed to hit me, as I was between the armoir and the wall. In my house was my family, composed of my wife and two boys, also three other women; they would have been killed only for my coolness and presence of mind in getting them to lay flat on the floor. I do not think they would have left as quick as they did, but I suppose they thought that they had killed everybody in the house, but Providence let it so happen that no one was killed.

I infer that the cause of the trouble was my action in the late canvass. The Republicans met in convention at Morgan City, La., and indorsed the nomination of Judge B. F. Winchester for judge of the nineteenth judicial district, comprising the parishes of St. Mary's and Terre Bonne. We made this indorsement by the request of one wing of the Democratic party of Terre Bonne. A day after the indorsement was made the Democratic executive committee of the parish of Terre Bonne also nominated Judge Winchester. They then met the following night in the Fireman's Hall, in the town of Houma, in a meeting numbering 150 or 200, all Democrats. No Republican was admitted. The meeting was called to order by Mr. Thomas L. Winder, chairman of the Democratic campaign committee, who used the following language in his speech: "For twenty-five years this parish has been held in bondage by the Republican party with a negro majority; by the eternal God we shall deliver ourselves from the bondage of the negro and the Republican party. This is a white man's government and this parish shall be placed in the column of the other Democratic parishes regardless of the cost and what may be the penalty, if it takes blood to do it." Speeches as violent were made by the other speakers.

These speeches alarmed the colored people much. Knowing that they have a majority of at least 600 votes in Terre Bonne Parish, the leaders of the Republican party made an appeal to the planters and stated that if they would give them the protection of life and safety of the ballot and a fair count they would support the candidate of their choice for judge. They pledged themselves to do that, and they did so; they asked of the Republican sheriff to appoint a planter as deputy sheriff at each poll. The sheriff did so. There was no trouble all the day of election, because of the presence of each planter (deputy sheriff) with a Winchester rifle on his shoulder. By that means we succeeded in electing the Republican State ticket and all the Republican parish officers, and Judge Allen, whom the Republican leaders promised to support. Being unable to carry out their threats and plans before the election, they sought revenge after the election by calling one man from his house and putting thirty bullets through him. After killing one man they came to my house to kill me also, but I was not fool enough to go to the door and be led out by them.

This man, Tobias Gibson, was the captain and leader of the mob. He said he wanted to have the two Democratic members of the house of representatives elected in order to secure those two votes for his brother as United States Senator.

This man Gibson was a candidate on the Democratic ticket for district attorney.

I was compelled to leave my home in Terre Bonne Parish to save my life; also a large number of Republicans were compelled to leave, and are now refugees in your city.

Respectfully, yours, etc.,

R. B. JOHNSON.

Maj. ANDREW HERO, Jr., *City*.

Mr. DOLPH. I do not know Mr. Johnson; I do not vouch for him; I know nothing about the facts stated in this letter. It was read in the Senate, and after it had been read and the fairness of the then recent elections in Louisiana had been challenged, both of the Senators from that State being present, sought to be recognized by the Chair. I was in the chair. I recognized them as soon as I could, considering that there was a colloquy going on between the Senator from Indiana [Mr. VOORHEES] and the Senator from Kansas [Mr. INGALLS]. They both addressed the Senate in regard to the elections in the State of Louisiana. I will quote directly from the speeches of both of them. The senior Senator from Louisiana [Mr. GIBSON] in his remarks on that day did not, as I recollect them, refer to this letter or challenge the correctness of the statements here made in any way, and so far as I know he has never done so up to this day. The senior Senator from Louisiana, after discussing the matter, said:

I do not think it is necessary for me to go further into details. This statement from Republican sources, from a committee of the Legislature of Louisiana, looking carefully into the auditor's accounts, declares in effect that Warmoth's administration had placed a mortage upon one-quarter of the entire property, movable and immovable, of the people of Louisiana in four years, while it had consumed their annual earnings with remorseless rapacity.

With such a record as that it was natural that the property-holders of the State, that the intelligent men of the State, in the recent election should show great earnestness and firmness and devotion to their own interests, in order to prevent a return of an administration which represented a policy which had already put in peril the earnings and the property of every man in the State.

I read that for what it is worth. It looks to me very much like a justification of the charges which had been made against the people of his State.

The junior Senator from Louisiana [Mr. EUSTIS] said:

I, as a Democrat of that State, having taken an active part in every struggle which that noble people have made, tell you that, instead of being abashed by your charges and aspersions, I throw them back in your teeth and tell you that I am proud of what the people of Louisiana have done in their struggle for home government and for the redemption of the State. I applaud their efforts, and, notwithstanding these harangues and speeches that are made by political leaders, I believe that the conduct of the people of Louisiana will have the approval of the thoughtful and intelligent honest people of the North, because the people of Louisiana are only doing what the people of Kansas and the people of Massachusetts would do under the same circumstances and under the same conditions unless they are deficient in manhood and patriotism, and I know they are not.

I ask leave to insert in my remarks a statement coming from, I suppose, very good authority. It is an account of the killing of eleven men, I believe, at New Iberia, August 17, 1888.

Mr. EUSTIS. What do you read from?

Mr. DOLPH. I read from the speech of the Senator from New Hampshire [Mr. CHANDLER] in the Senate of the United States on the 23d and 24th days of August, 1888; but I read an article, a special telegraphic dispatch to the Times-Democrat of New Orleans, clipped from that paper, I suppose a good Democratic paper. But the account of the matter is somewhat long, and if there is no objection, after stating the source from which it came, I will have it inserted in my remarks as some of the evidence of the facts which I promised the Senator from Louisiana a few days ago:

ELEVEN MEN KILLED—FIGHT BETWEEN A SHERIFF'S POSSE AND NEGROES IN IBERIA—THE NEGROES OPEN FIRE ON THE POSSE AND KILL MR. E. PAYSON SMITH—THE FIRE RETURNED, AND A SHARP BATTLE ENSUES—TEN NEGROES KILLED AND ONE WOUNDED.

[Special to the Times-Democrat.]

NEW IBERIA, *August* 17.

The funeral of E. P. Smith, who was killed at Freetown on Thursday, took place here to-day. His remains were exposed in the Episcopal Church, on Main street, and at 5 o'clock, the hour fixed for the funeral, the church was crowded to its utmost capacity. Rev. Mr. Kramer officiated. The remains were interred in the Episcopal cemetery, the funeral cortége including the Iberia Guards, Lieutenant Burkhartin command; the Attakapas Rangers, Lieutenant Smedes; Phœnix Bucket Fire Company, of which deceased was a member; and the entire fire department. The floral offerings were numerous and beautiful.

Mr. Smith came to New Iberia in 1869 and embarked in land speculations. He was a native of the city of Chicago. At one time he was in partnership with J. C. M. Robinson, but the partnership was dissolved some years ago.

Mr. Smith, who was forty-two years of age, was unmarried and had no relatives in this section of the country. He was an active member of the Iberia Guards and a national Republican, but in all local issues he voted the Democratic ticket and was an active worker for that party.

The causes which led to the sad and untimely taking off of the deceased were briefly narrated in Thursday morning's Times-Democrat, and with a view of obtaining the full particulars of the fight a staff correspondent of the Times-Democrat was dispatched to the scene, arriving in due time at New Iberia, where very little difficulty was experienced in obtaining the particulars of the deplorable tragedy.

So as to make the story clear to those unacquainted with this section of the country and give them a proper conception of the situation, it is necessary to begin with the organization of the "regulators," which took place some weeks ago.

The objects of the association are to punish the wicked by whipping parties found guilty of improper conduct. In all the Attakapas parishes the regulators grew and flourished until they became quite strong, so strong, in fact, that to resist them seems to be an impossibility. They claimed that they were a necessity, as the morals of the lower class of whites and blacks were becoming terribly bad.

Near New Iberia, about 10 miles to the westward, is situated the little village of Freetown, a place occupied entirely by colored people, who own property, raise crops, and live very much as they please. Some of these colored people are quite respectable and wealthy, while it is alleged that others are decidedly bad.

When the attempt was made to regulate affairs at Abbeville, Vermilion Parish, on August 10, some of the refugees from that place went, so it is said, to Freetown, where the bad negroes agreed to protect them from the regulators. They openly made threats that they would protect any and all colored refugees, and would regulate the whites if they attempted to regulate them.

These are the reports which reached New Iberia and other towns, and the whites began to feel that it was time to act. During the beginning of the week the complaints from Freetown became more frequent and alarming, and it was reported that the colored people were drilling every night, riding roughshod over people's places, and in other ways conducting themselves in a manner con-

sidered very objectionable. This was the condition of affairs when the following letter was received by Captain Cade:

"POTEAU, PARISH OF IBERIA, *August* 15.

"To Capt. C. T. CADE, *New Iberia, La.:*

"DEAR SIR: We, the undersigned citizens and residents of the Fifth ward of the parish of Iberia, Louisiana, do respectfully beg you to come out with your company on the nearest future day to preserve the peace in our neighborhood among the negroes. They are all under arms and ready to do some bad work among the whites. We assure you that they are all armed and ready for fighting, especially in Freetown and at old Tom Simon's place.

"Awaiting to be helped, yours."

Signed by Euclieu Norres, Duplic Romero, Jos. Romero, Burese Delahoussaye, Dema Delahoussaye, Horner Romero, Dupré Romero, Cenesse Delahoussaye, Jos. Norris, R. F. Drouen.

Captain Cade, who is a deputy sheriff, showed the letter to numerous influential citizens, and after discussing the matter thoroughly he concluded to go with a posse and demand the surrender of guns and arms held by the negroes. The party consisted of eight men, and Captain Cade left New Iberia at 1 a. m. on Thursday, August 16, and reached a point beyond at 11 o'clock.

In passing near Freetown Captain Cade was informed that assistance would soon join him. After a wait of some minutes Captain Cade was joined by squads of armed men from Vermilion and Lafayette Parishes. Thus augmented, the posse numbered about one hundred and fifty men. A brief consultation resulted in a plan of action, and the posse was divided into two squads and rode into town.

It was now just 1 o'clock and very few negroes were found in the streets. Thomas Simon, one of the most respectable negroes in this section, was sent for and he came to the posse. Simon was sixty-five years of age, had a large family, and owned property. He was friendly, or pretended to be, to Captain Cade, and Captain Cade asked him to call the negroes out and get them to surrender their arms, promising if they did so that no harm would come to them. Simon had a consultation with the negroes, who had congregated in a large two-story house owned by Célestin Nore, a preacher. Old Simon returned from his trip with the information that the negroes had scattered and could not be found. He said that the posse would have to come some other day if they wanted to see the negroes.

While this conversation was going on one of Captain Cade's men saw a number of powder-horns, guns, etc., in the house, and so informed the captain. Simon then left the captain, but lingered in the vicinity.

A negro named Kokee was then pressed into service. He was sent into the house by Captain Cade with instructions to tell the negroes that they would be given five minutes in which to surrender their arms, promising if they did so that no harm would come to them.

The five minutes elapsed and then Kokee came to the door with one negro, who stated he was willing to surrender. The posse had been in front and around the house for over two hours. They had used every effort to get the negroes to surrender their weapons, but apparently without effect.

The one negro who appeared at the door with Kokee held his gun in his hand. One of Captain Cade's men called out to him to drop the gun. He did it, and as he did the negroes in the house opened fire. The fire was returned by the posse. Volley after volley was exchanged.

Then the fire became more ragged, but for over thirty minutes was kept up. Then the responses from the house where the negroes were surrounded began to grow faint and finally ceased entirely. Captain Cade approached the house and attempted to push aside a window curtain so as to see inside. As he did so he was fired on, but retreated unhurt.

Then E. Payson Smith and Alfred Lasalle approached the door. Captain Cade ordered them to return, but they persisted. His commands were unheeded, and the men boldly rushed into the house to ascertain the result of the fire of their comrades. Just as they entered they were fired on.

A cloud of smoke filled the doorway and Lasalle emerged out into the open air, pistol in hand, firing into the house as he retreated. Smith was not with him, and at once it flashed through the minds of the posse that he had been killed. Smith's name was called again and again, but no answer was received. Lasalle said he thought Smith had been killed.

At this moment a number of negroes from the other end of town came up and surrendered their guns. They were not molested. One of them, Marshall Degas, was directed by Captain Cade to enter the house and bring out Smith's body. The firing had stopped on both sides and not a sound emanated from the building.

Degas did not enter. He looked in at the window and saw that Smith was dead. He reported that fact to Captain Cade, and, as he was not strong enough to carry the body out, asked for help.

Another negro was sent to his assistance, and they brought the dead body out. It was found out that one-half of Smith's face had been shot off and that his heart was filled with buckshot. His weapons had been taken from him. The same negroes who had previously entered the house were ordered to go back again and draw the curtain so that the posse could see how to fire into the room.

As the negro entered two negroes jumped out and ran into the field. They were shot down as they ran. By this time the negroes, who had been so ordered, pulled down the curtain, and the posse saw that the window was covered on the inside by a feather mattress. The mattress was seen to move, and in an instant it was riddled with bullets.

Death, certain and instantaneous, came to those behind it. It was now growing late, and the house was still surrounded, but its batteries appeared to be silenced. Célestin Nore, the owner of the house, arrived at this time and was sent by Cade into the house to ascertain if any one was still alive.

Célestin is a colored preacher, and he entered fearlessly. He came out and said that all were dead. It was not considered safe to believe him, however, and he was ordered to take other negroes to assist him and to bring out the corpses. This he did, and soon what appeared to be the bodies of five dead negroes were laid out in the grass. The posse congregated around the bodies.

One of Captain Cade's men thought he detected signs of life in one of them. He said: "Captain, here is a negro shamming; he ain't hurt." The body was turned over and over and examined carefully, but not a scratch could be found.

All this time the supposed corpse remained perfectly motionless. One of Captain Cade's men raised his heavy riding whip and it fell with stinging force on the body. Unable to stand the pain, the negro, who had taken such desperate chances for his life, sprang to his feet and was instantly riddled with bullets. There being no longer any doubt as the fate of the negroes, the posse began collecting the arms, and secured twenty rifles and guns and any number of pistols. The negroes who had been captured were given their liberty; they, of course, turning over their arms to the posse.

A list of the killed among the colored is as follows: Sam Kokee; Thomas Simon, Antonio Michel, alias Smith; Ramson Livingston, jr.; John Simon; Peter Simon; and four others whose names could not be learned.

Only one negro, Alexis Lade, was wounded. His injuries are not serious.

In speaking with Captain Cade as to the causes which led to the organization of the regulators and to the subsequent trouble, it was learned that shortly after the regulators were organized a colored man was whipped for unbecoming conduct at a point 2 miles from Freetown.

Then two men, one named Alcee and the other François Brouare, were ordered to leave the parish. The negroes then became aroused. Two weeks ago Captain Cade was asked by old Simon to regulate his own boys, as they would not work or do anything. The idea with them seemed to be that they were going to be ordered to leave town. Captain Cade assured Simon that he would not be troubled, nor would his sons be.

Of late the blacks at Freetown, Captain Cade said, had been growing very dangerous, and at night they would commit numerous depredations, fire guns, etc. They defied the white people residing in the vicinity. This caused the letter to Captain Cade, and the row ensued as stated above, Captain Cade holding that he was simply acting as a deputy sheriff.

Freetown is situated on a small hill. Its population is composed of colored people exclusively. It was founded by Célestin Nore, Thomas Simon, old man Nelson, and Romson Livingston and others. Livingston purchased the land and sold it to the other colored people who wanted to purchase small farms. The settlement dates its beginning some time in 1870. Its present population is about 300 all told. The voters number from 75 to 100. The Seventh ward of Iberia Parish includes Freetown. It is about 4 miles from Royville, the same distance from Cade Station, and 10 miles from New Iberia.

During the evening it was rumored that the negroes at Petit Anse had armed, and an excursion in that direction at one time seemed to be in preparation. Later, during the evening, negotiations were opened with Captain Cade, and all the negroes in Petit Anse agreed to surrender their arms, provided they would not be molested or whipped.

Deputy sheriffs will go out in the morning and get the guns and weapons of the negroes.

The coroner's jury late at night returned to Iberia from Freetown. The report of ten negroes being killed was verified. Their bodies, with the exception of one, had been buried before the jury, which left New Iberia at 2 p. m., arrived.

The dead negroes were interred by their friends and relatives. Alexis Lade, the only one wounded during the fight, stated to the coroner that the firing was begun from the house by the negroes. He is the man who came out of the house and surrendered when the shooting began. All is quiet here now.

In the recent inaugural message of Governor Tillman, of South Carolina, he used this language:

> The intelligent exercise of the right of suffrage, at once the highest privilege and most sacred duty of the citizen, is as yet beyond the capacity of the vast majority of colored men.

What kind of capacity is meant is explained by the following passage:

> When it is clearly shown that a majority of our colored voters are no longer imbued with Republican ideas the vexed negro problem will be solved and the nightmare of a return of negro domination will haunt us no more. The whites have absolute control of the State government, and we intend at any and all hazards to retain it.

What does this mean? Simply that when a majority of the colored citizens vote the Democratic ticket they will be permitted to vote, but until then they shall not vote, and that the whites will take any and all hazards to prevent it.

Mr. GRAY. Is that Governor Tillman's language?

Mr. DOLPH. No, sir. I spoke so that the Senator could understand that I had concluded my quotation of Governor Tillman's language, and that I am now giving my interpretation of it.

Mr. GRAY. I beg the Senator's pardon; I did not understand. I was asking respectfully for information.

Mr. DOLPH. I will state to the Senator that I had followed the quotation by asking What does this mean? Simply that when a majority of colored citizens vote for the Democratic party they will be permitted to vote, but until then they shall not vote, and that the whites will take any and all hazards to prevent it.

It is the chief executive of the State of South Carolina who in substance declares that no Federal legislation and no exercise of Federal authority shall secure to the colored citizens of that State the free exercise of their right to vote so as to jeopardize the control of the whites. And this declaration is but the echo of similar declarations made in this Chamber and by public speakers throughout the South and found in the editorial columns of every Democratic paper south of Mason and Dixon's line.

No artifice, no expedient, no fraud, no violence, no disregard of public opinion in the North or of the moral sentiment of the world, is going to deter the solid South from maintaining its supremacy by a suppression of the colored vote. Nothing but the exercise by Congress of the powers lodged in it by the Federal Constitution and the power of the General Government to enforce the legislation will ever succeed in securing the free exercise to citizens of the United States in those States of their right to free speech and to a free ballot.

The Senator from West Virginia has alluded to the connection of the distinguished Senators from Massachusetts and New York with the Electoral Commission and to that commission with sneers and denunciation. Nothing in the illustrious careers of those Senators has contributed more to their just fame than the part they took in the proceedings of that great tribunal.

The fame of the distinguished, able, and fearless jurist whose name heads the list of the majority in the decisions of the commission, and who has passed from his labors here, will not suffer from the denunciations of the Senator from West Virginia. The character of the great war governor of Indiana, who sleeps beneath a monument erected to his memory by a grateful people, will not suffer, and the grateful remembrance in which the people of the nation hold the memory of the murdered Garfield will not grow dim from malignant attacks like that to which we have listened to to-day. Nor can such aspersion shake the confidence of the right-thinking people of this country in the ability, the learning, and honesty of purpose of the living members of the majority of that commission, who are a venerable and venerated justice of the Supreme Court, an aged ex-justice of the court, and the distinguished Senators from Vermont and Massachusetts.

I have listened many weary hours in the Senate to the discussion of the Hayes and Tilden electoral controversy. I am not going to discuss the question of the Presidential election of 1876 in Louisiana and Florida. No President of the United States was ever inaugurated who had a better title to his office than President Hayes. The title to no other President was ever passed upon by a judicial tribunal. Everybody knows, also, that the Republican voters in both Louisiana and Florida were in a majority at the time of the Presidential election, and that if the action of the returning boards in either of those States was not strictly in accordance with law (which I do not by any means admit), it did justice to the people of those States and prevented gross fraud and violence from thwarting the will of the people.

The cry of fraud against the returning boards of Louisiana and Florida has been used as an excuse for all the violence, intimidation, and fraud in the South which preceded and which have followed the Presidential election of 1876.

I have been tempted many times, when that election has been under discussion and Senators on this side of the Chamber have been treated *ad nauseam* to a denunciation of the proceedings in Louisiana and Florida, to call the attention of our Democratic friends, the country, and Senate to the Oregon fraud. The Republicans carried Oregon at the Presidential election of 1876 by about 1,000 majority. One of the electors, Dr. J. W. Watts, was a postmaster in the little town of La Fayette. This was not known to the Republican electors until after the election. When it became known he at once, and long before the canvass of the vote, resigned.

The next day after the election telegrams came from the Tilden headquarters in New York saying they must have Oregon, as Tilden only lacked one vote. John Morrissey, who was said to have bet largely on the result, telegraphed in substance: "We must have Oregon." And again he telegraphed: "For God's sake what are you doing in Oregon?" Governor Grover telegraphed East: "The result can not be determined until the official count." The law of Oregon requires the secretary of state to canvass the vote for electors and certificates to be given to the person having the highest number of votes. Neither the secretary of state nor the governor had any jurisdiction or power to inquire into the qualifications of electors. The canvass of the vote showed that the three Republican candidates for electors had each received majorities approximating 1,000.

Notwithstanding this, Governor Grover issued one certificate to two of the Republican candidates and to A. E. Cronin, one of the Democratic candidates. He usurped judicial powers not conferred upon him by the Constitution. Not a single member of the Electoral Commission sustained his action. The attempt to defraud the people of Oregon and of the United States out of their victory was an outrage which has scarcely a parallel.

This was not all. It has since transpired that at least $9,000 of Governor Tilden's money, and no one knows how much more, was sent to Oregon for the purpose of securing the issuing of the certificate to Cronin and of buying a Republican elector. Let no one suppose that Grover and the other actors in this transaction in Oregon are alone responsible for it. It is a matter of history that their action was urged by the most prominent men of their party in the East; that the infamy was planned in New York, and that the opinion of Governor Grover, or at least the material for it, was prepared and forwarded from there. He was urged to the course he pursued by the prominent members of his party in Oregon.

The leading Democratic lawyers of the State volunteered to argue the matter before him, and the Democratic politicians stood ready to see that the Tilden programme was carried out by force, if necessary. In fact, the Democratic party of that State approved the attempt to steal the electoral vote of Oregon, indorsed a fraud unparalleled in the history of the country for boldness of design and utter disregard of law. Nor was this flagrant violation of law the result of ignorance. It was deliberately planned and executed for the purpose of defrauding the people of the State and the nation out of the fruits of a hard-fought battle and an undoubted victory.

The "cipher dispatches," the evident intention on the part of the Tilden managers to purchase a Republican elector, the liberal distribution of funds, disclosed the true character of the transaction, which was sufficiently reprehensible to render the chief conspirator an unavailable candidate for renomination for the Presidency and equally damaging to the agents in Oregon who undertook to execute what he planned.

Fortunately, by the vigilance and promptness of the Republicans in Oregon and the righteous judgment of the Electoral Commission, this stupendous fraud and brazen attempt to steal the vote of Oregon and capture the Presidency failed. That the true character of this conspiracy against law and justice, against the rights of the people of the State of Oregon and of the Union, may appear, I quote from the testimony taken by the Senate Committee on Privileges and Elections concerning the matter.

Mr. MITCHELL. Will my colleague yield the floor?

Mr. DOLPH. No; I do not care to yield the floor. Some one wanted to move an executive session, I understood, and I was willing to give way for that.

Mr. MITCHELL. My colleague is tired and prefers to go on in the morning. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, December 17, 1890, at 10 o'clock a. m.

CONFIRMATION.

Executive nomination confirmed by the Senate December 15, 1890.

PROMOTION IN THE NAVY.

Chief of Bureau of Construction and Repair.

Naval Constructor Theodore D. Wilson, United States Navy, to be Chief of the Bureau of Construction and Repair and chief constructor of the Navy, in the Department of the Navy, with the relative rank of commodore.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 16, 1890.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The following members appeared to-day and took their seats:

Mr. STONE, of Missouri, and Mr. WHEELER, of Michigan.

The Journal of the proceedings of yesterday was read and approved.

HOLIDAY RECESS.

Mr. MILLS. Mr. Speaker, I offer the following privileged resolution.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Monday, the 22d day of December, 1890, they stand adjourned until 12 o'clock meridian, on Monday, January 5, 1891.

Mr. DINGLEY. Is that offered simply for reference to the Committee on Ways and Means?

Mr. MILLS. No, sir; it is offered for adoption.

Mr. DINGLEY. I think it had better be referred.

Mr. MILLS. No, I think not. There is no necessity for referring it and if it is referred it may not come back.

Mr. DINGLEY. Mr. Speaker, I move to refer the resolution to the Committee on Ways and Means.

The question was taken on the motion of Mr. DINGLEY, and the Speaker announced that the noes appeared to have it.

Mr. DINGLEY demanded a division.

The House divided.

The SPEAKER. On this question the ayes are 69 and the noes are 69, and the Chair votes in the affirmative.

Mr. TRACEY, Mr. O'FERRALL, and Mr. MILLS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 126, nays 115, not voting 90; as follows:

YEAS—126.

Adams,	Dalzell,	Lind,	Scranton,
Allen, Mich.	Darlington,	Lodge,	Scull,
Arnold,	Dingley,	Mason,	Sherman,
Atkinson, Pa.	Dolliver,	McComas,	Simonds,
Atkinson, W. Va.	Dorsey,	McDuffie,	Smith, Ill.
Baker,	Dunnell,	McKenna,	Smith, W. Va.
Banks,	Evans,	McKinley,	Smyser,
Bartine,	Farquhar,	Miles,	Spooner,
Bayne,	Finley,	Milliken,	Stivers,
Beckwith,	Flick,	Moffitt,	Stockbridge,
Belden,	Frank,	Moore, N. H.	Stone, Pa.
Belknap,	Funston,	Morrow,	Struble,
Bingham,	Gear,	Morse,	Sweney,
Boothman,	Gest,	Mudd,	Taylor, E. B.
Boutelle,	Greenhalge,	Niedringhaus,	Taylor, Ill.
Brewer,	Grout,	Nute,	Taylor, J. D.
Brosius,	Hall,	O'Donnell,	Thomas,
Brower,	Harmer,	O'Neill, Pa.	Thompson,
Buchanan, N. J.	Hays, E. R.	Osborne,	Townsend, Colo.
Burrows,	Henderson, Iowa	Payne,	Turner, Kans.
Burton,	Hermann,	Perkins,	Vandever,
Caldwell,	Hill,	Pickler,	Van Schaick,
Cannon,	Hopkins,	Post,	Wade,
Carter,	Houk,	Pugsley,	Walker,
Caswell,	Kelley,	Quackenbush,	Wallace, Mass.
Cheadle,	Kerr, Iowa	Randall,	Wheeler, Mich.
Clark, Wyo.	Ketcham,	Ray,	Williams, Ohio
Cogswell,	Kinsey,	Reed, Iowa	Wilson, Ky.
Coleman,	Lacey,	Rockwell,	Wilson, Wash.
Comstock,	Laidlaw,	Rowell,	Wright.
Culbertson, Pa.	Langston,	Russell,	
Cutcheon,	Laws,	Sawyer,	

NAYS—115.

Abbott,	Bland,	Brown, J. B.	Candler, Ga.
Alderson,	Blount,	Brunner,	Caruth,
Allen, Miss.	Boatner,	Buchanan, Va.	Catchings,
Andrew,	Breckinridge, Ky.	Buckalew,	Chipman,
Biggs,	Brickner,	Bynum,	Clancy,
Blanchard,	Brookshire,	Campbell,	Clarke, Ala.

Clements,	Goodnight,	McRae,	Sayers,
Clunie,	Grimes,	Mills,	Shively,
Cobb,	Hare,	Montgomery,	Skinner,
Cooper, Ind.	Haynes,	Moore, Tex.	Spinola,
Covert,	Hemphill,	Mutchler,	Stewart, Tex.
Crisp,	Henderson, N. C.	Oates,	Stockdale,
Culberson, Tex.	Holman,	O'Ferrall,	Stone, Mo.
Cummings,	Hooker,	O'Neall, Ind.	Tillman,
Dickerson,	Kilgore,	O'Neil, Mass.	Tracey,
Dockery,	Lane,	Outhwaite,	Tucker,
Dunphy,	Lanham,	Owens, Ohio	Turner, Ga.
Edmunds,	Lee,	Parrett,	Turner, N. Y.
Ellis,	Lester, Va.	Paynter,	Vaux,
Enloe,	Lewis,	Peel,	Washington,
Fitch,	Magner,	Penington,	Wheeler, Ala.
Fithian,	Maish,	Perry,	Whitelaw,
Flower,	Mansur,	Pierce,	Whitthorne,
Forman,	Martin, Ind.	Pindar,	Wike,
Forney,	Martin, Tex.	Quinn,	Wilkinson,
Fowler,	McAdoo,	Richardson,	Williams, Ill.
Geary,	McCarthy,	Robertson,	Wilson, W. Va.
Geissenhainer,	McCreary,	Rogers,	Yoder.
Gibson,	McMillin,	Rusk,	

NOT VOTING—90.

Anderson, Kans.	Crain,	Lawler,	Seney,
Anderson, Miss.	Dargan,	Lehlbach,	Snider,
Bankhead,	Davidson,	Lester, Ga.	Springer,
Barnes,	De Lano,	McClammy,	Stahlnecker,
Barwig,	Dibble,	McClellan,	Stephenson,
Bergen,	Ewart,	McCord,	Stewart, Ga.
Bliss,	Featherston,	McCormick,	Stewart, Vt.
Bowden,	Flood,	Miller,	Stone, Ky.
Breckinridge, Ark.	Gifford,	Morey,	Stump,
Browne, T. M.	Grosvenor,	Morgan,	Sweet,
Browne, Va.	Hansbrough,	Morrill,	Tarsney,
Bullock,	Hatch,	Norton,	Taylor, Tenn.
Bunn,	Haugen,	Owen, Ind.	Townsend, Pa.
Butterworth,	Hayes, W. I.	Payson,	Waddill,
Candler, Mass.	Heard,	Peters,	Wallace, N. Y.
Carlton,	Henderson, Ill.	Phelan,	Whiting,
Cheatham,	Herbert,	Price,	Wickham,
Clark, Wis.	Hitt,	Raines,	Wiley,
Connell,	Kennedy,	Reilly,	Willcox,
Cooper, Ohio	Kerr, Pa.	Reyburn,	Wilson, Mo.
Cothran,	Knapp,	Rife,	Yardley.
Cowles,	La Follette,	Rowland,	
Craig,	Lansing,	Sanford,	

So the resolution was referred to the Committee on Ways and Means.

The Clerk announced the following pairs:

Until further notice:

Mr. T. M. BROWNE with Mr. BANKHEAD.

Mr. BROWNE, of Virginia, with Mr. NORTON.

Mr. TAYLOR, of Tennessee, with Mr. BARWIG.

Mr. STEPHENSON with Mr. MCCLAMMY.

Mr. MCCORD with Mr. TARSNEY.

Mr. DE LANO with Mr. ROWLAND.

Mr. HITT with Mr. HATCH.

Mr. CLARK, of Wisconsin, with Mr. ANDERSON, of Mississippi.

Mr. LELHBACH with Mr. STUMP.

Mr. ANDERSON, of Kansas, with Mr. DAVIDSON.

Mr. BUTTERWORTH with Mr. LEE.

Mr. BLISS with Mr. WHITING.

Mr. GIFFORD with Mr. MORGAN.

Mr. PETERS with Mr. DOCKERY.

Mr. MCCORMICK with Mr. REILLY.

Mr. MILLIKEN with Mr. DIBBLE, until January 2, 1891.

On this vote:

Mr. WADDILL with Mr. WILEY.

Mr. REYBURN with Mr. SPRINGER.

Mr. YARDLEY with Mr. SENEY.

Mr. BOWDEN with Mr. CRAIN.

For this day:

Mr. WALLACE, of New York, with Mr. KERR, of Pennsylvania.

Mr. DINGLEY moved to dispense with the recapitulation of the vote.

The result of the vote was then announced as above recorded.

CONGRESSIONAL APPORTIONMENT.

Mr. DUNNELL. Mr. Speaker, I ask for the immediate consideration of the bill (H. R. 12500) making an apportionment of Representatives in Congress among the several States under the Eleventh Census.

The SPEAKER. The Clerk will read the bill.

The bill was read, as follows:

Be it enacted, etc., That after the third of March, eighteen hundred and ninety-three, the House of Representatives shall be composed of three hundred and fifty-six members, to be apportioned among the several States as follows: Alabama, nine; Arkansas, six; California, seven; Colorado, two; Connecticut, four; Delaware, one; Florida, two; Georgia, eleven; Idaho, one; Illinois, twenty-two; Indiana, thirteen; Iowa, eleven; Kansas, eight; Kentucky, eleven; Louisiana, six; Maine, four; Maryland, six; Massachusetts, thirteen; Michigan, twelve; Minnesota, seven; Mississippi, seven; Missouri, fifteen; Montana, one; Nebraska, six; Nevada, one; New Hampshire, two; New Jersey, eight; New York, thirty-four; North Carolina, nine; North Dakota, one; Ohio, twenty-one; Oregon, two; Pennsylvania, thirty; Rhode Island, two; South Carolina, seven; South Dakota, two; Tennessee, ten; Texas, thirteen; Vermont, two; Virginia, ten; Washington, two; West Virginia, four; Wisconsin, ten; Wyoming, one.

SEC. 2. That whenever a new State is admitted to the Union the Representative or Representatives assigned to it shall be in addition to the number three hundred and fifty-six.

SEC. 3. That in each State entitled under this apportionment the number to which such State may be entitled in the Fifty-third and each subsequent Congress shall be elected by districts composed of contiguous territory and containing as nearly as practicable an equal number of inhabitants. The said districts shall be equal to the number of the Representatives to which such State may be entitled in Congress, no one district electing more than one Representative.

SEC. 4. That, in case of an increase in the number of Representatives which may be given to any State under this apportionment, such additional Representative or Representatives shall be elected by the State at large, and the other Representatives by the districts now prescribed by law until the Legislature of such State in the manner herein prescribed shall redistrict such State, and if there be no increase in the number of Representatives from a State the Representatives thereof shall be elected from the districts now prescribed by law until such State be redistricted as herein prescribed by the Legislature of said State.

SEC. 5. That all acts and parts of acts inconsistent with this act are hereby repealed.

Mr. BLOUNT. Mr. Speaker, does this come up under a special order?

The SPEAKER. It comes up as a privileged motion.

Mr. DUNNELL. Mr. Speaker——

Mr. BLOUNT. I desire to make a parliamentary inquiry of the Chair at this point.

The SPEAKER. The Chair does not hear the gentleman from Georgia.

Mr. BLOUNT. I would like to know under what rule this is determined to be a privileged question.

The SPEAKER. Under what rule? A bill making an apportionment is a privileged question.

Mr. BLOUNT. There is no designation of that sort in the rules that I know of.

The SPEAKER. Not in the rules themselves, but it has been so decided before.

Mr. BLOUNT. Under the rules of the House, Mr. Speaker, I find—

The following-named committees shall have leave to report at any time on the matters herein stated, viz: The Committee on Rules, on rules, joint rules, and order of business; the Committee on Elections, on the right of a member to his seat; the Committee on Ways and Means, on bills raising revenue; the committees having jurisdiction of appropriations, the general appropriation bills; the Committee on Rivers and Harbors, etc.

Without reciting them further, the Committee on the Eleventh Census is not included in the list.

The SPEAKER. The Chair thinks there is no question about this being a privileged question, because it is a constitutional duty imposed upon Congress. The decision which the Clerk will read was made in the Forth-seventh Congress.

The Clerk read as follows:

Digest, page 287. "A bill making an apportionment of Representatives in Congress among the several States under the last census is a privileged question." (Journal 1, 47, page 519.)

Mr. DUNNELL. Mr. Speaker, the bill which has been read does not make it necessary for me to ask the attention of the House at any great length.

Mr. TAYLOR, of Illinois. It is impossible to hear anything.

The SPEAKER. The House will please be in order.

Mr. BLOUNT. Mr. Speaker, I respectfully appeal from the ruling of the Chair. I think in this matter that the rules are express as to what are privileged motions.

Mr. HOPKINS. I make the point of order that it is too late.

The SPEAKER. The Chair thinks debate had already commenced. The gentleman should have taken his appeal earlier.

Mr. MCMILLIN. Mr. Speaker, there was such confusion that we could not hear what was going on.

The SPEAKER. Evidently the gentleman from Minnesota was stating the question. [After a pause.] The gentleman from Minnesota will proceed.

Mr. DUNNELL. Mr. Speaker, I was saying that the bill which has just been read——

Mr. BLOUNT. Mr. Speaker, before the gentleman proceeds, if it is agreeable to him now, I would like to ascertain what time is to be given for the consideration of this bill.

The SPEAKER. Will gentlemen please take their seats and will the House be in order? Does the gentleman from Minnesota yield?

Mr. DUNNELL. I yield for a question.

Mr. BLOUNT. I wish to know of the gentleman from Minnesota what time would be allowed for discussion of this bill and whether he prefers to go on with his remarks now and arrange it afterwards? I have no objection to that.

Mr. DUNNELL. I prefer to go on for just a short time and explain the bill. It is not my purpose to occupy much time at the opening of this discussion.

Mr. BLOUNT. Is it the gentleman's purpose when he gets through to endeavor to arrange the time for discussion?

Mr. DUNNELL. It is.

Mr. Speaker, it seems to me that I shall have discharged my duty as chairman of the Committee on the Eleventh Census if, in a few words, and a very few words, I shall explain the provisions of the bill. It appears here responsive to the requirements of the second section of Article XIV of the Constitution of the United States, and is based upon the Eleventh Census, that was officially announced on the 25th of November last.

The first section of the bill provides for the number of Representatives that shall be allowed from each State in the Fifty-third and sub-

sequent Congresses. It provides for a membership of 356, which is an increase of 24 members over the present number. Later I will call attention to the method that has been used in ascertaining the number to which each State is entitled under the census. The first section simply alludes to the membership as it shall be in the Fifty-third and subsequent Congresses. Before I proceed to define the method by which the number was ascertained I shall say in a general way that sections 2, 3, 4, and 5 are almost identical with the corresponding sections as they appear in the apportionments based upon the Ninth and also upon the Tenth Census. There is no new provision incorporated in those sections; and they are, as I have already said, substantially the same. There was no contest in the committee over these sections except such as was merely verbal.

Twenty-five of the forty-four States will receive under this bill the same number of Representatives which they now have. There are thirteen States, as will be seen in the report of the committee, which will be entitled under the bill to an additional member—Alabama, Arkansas, California, Colorado, Georgia, Kansas, Massachusetts, Michigan, Missouri, New Jersey, Oregon, Washington, Wisconsin. There are two additional members allowed under the bill to each of the following States: Illinois, Minnesota, Pennsylvania, and Texas. Three additional members are given to the State of Nebraska.

I might, if I saw fit, make some allusion to the census of this year upon which the new apportionment of members has been made. I could do so with pride as an American citizen, in noting the great growth of the population of the United States compared with the population a hundred years ago. On page 4 of the report will be seen the figures of the population of 1790, 3,929,214. The population of the United States this year is 62,622,250. But, Mr. Speaker, I do not consider it necessary to dwell upon this increase in our population. It will, however, be a matter to be considered when we discuss the question whether our present representation shall remain or whether it shall be increased according to the provisions of this bill.

There is a diversity of opinion among the members of the House, and there was some among the members of the committee, upon that point. There were those upon the committee favoring the present number of members. There was also upon the committee one gentleman, the member from South Carolina [Mr. TILLMAN], who advocated a large increase in the membership of the House. The committee finally decided to accept and adopt the number 356. I shall be asked why this number rather than any other was selected. I reply that it was selected because it was found to be the number first reached between 332 and 375 that would secure to each State its present representation.

The committtee discovered in the House a decided unwillingness, almost universally entertained and very largely expressed, to consent to any reduction in the present number of members assigned to any State. This bill, therefore, provides that no State shall suffer a decrease in its present representation. This was one object sought in the apportionment which has been made. The number 356 is also fortunate, as was found, in this, that, using it primarily as a divisor in the aggregate population of the United States, after subtracting the population of the District of Columbia and the four Territories, a ratio was obtained which, divided into the population of each State, gave the most favorable results. That ratio was 173,901. With this as a ratio, the present bill has been constructed. The outcome has already been stated to the House.

As I have already said, there has been an increase to thirteen States of one member each. Four States get two additional members each, and one State gets three additional members. Using that number, 173,901, as the divisor, the ratio, it was discovered in its use that there would be left no fraction, and no State unprovided for having a fraction more than one-half. That was not found to be true with any other ratio than 173,901. If gentlemen will turn to page 13 of the report they will see that no major fractions remain in making up the number of members assigned to the House. On an even division, by this ratio the number of members found was 339. This statement will be found substantially presented on the third page of the report accompanying this bill.

In order to obtain the number 356, after having obtained the number 339, whether pursuing the old or the new method, fractions were sought which would entitle a given State to an additional member, as 17 additional members were needed in order to make the total number 356. The following States were found to have major fractions: Alabama, California, Georgia, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Virginia, and Wisconsin. Using the major fractions as they were found to exist, the additional 17 members were secured and there was no major fraction left; so that, approximately, complete justice was done to all the States.

As I said a moment ago there were those upon the committee who desired to retain the present number, but it was found that that could not be used without contravening what seemed to be the universal sentiment of the House, because very many States would lose one from their present representation. There would be ten States that would lose one member each. Letting this fact guide us, there was found to be no other number that we could reasonably make use of than 356 and no other ratio than 173,901.

Mr. Speaker, this bill, in my judgment, is an eminently fair one, and I think it must commend itself to all the members of this House as fair and just. Recognizing the wish of the House that there should be no diminution of membership, the committee were forced, as I have said, to the acceptance of the number 356. Gentlemen will, of course, see that some number ultimately must be used and some ratio ultimately must control the committee. Three hundred and fifty-nine is a number that would let in three additional Representatives. A good argument can be made in favor of that number. It would give the State of Arkansas, the State of Minnesota, and the State of New York one additional member each. I made the motion in the committee that 359 be adopted, but it did not meet the concurrence of the committee.

The difficulty in increasing to 359 will be seen by an examination of the tables presented in the report. It will be seen that by using the ratio which would then be necessary, namely, 172,448, and going through with all the States in that way, there would remain to some States fractions unprovided for as large as the fractions which now remain unprovided for to Arkansas, Minnesota, and New York. And, if we were to step forward 2, 3, 4, or any given number, we would have a different ratio, and therefore a different condition of the remaining unprovided for fractions.

So that, Mr. Speaker, there is a necessity for stopping somewhere. No State is really legislated against, because no State having a major fraction is left out. If I recollect, Mr. Speaker—and I was a member of the House when the apportionment bill based upon the Ninth Census and also the bill based upon the Tenth Census passed—a major fraction absolutely controlled in both of those cases. We are making no departure, therefore, when we insist that the number 356 has been properly taken and may be properly adhered to. If we depart from it we shall find ourselves liable to do injustice to another class of States, while no State is really unjustly treated by the proposed apportionment.

Mr. OATES. Will the gentleman allow me a question?

Mr. DUNNELL. I will.

Mr. OATES. I desire to know whether the committee has made any calculation (I have seen no report of any) of the effect of adopting a descending scale with regard to the present number, instead of an ascending scale, so as to show what would be the result of taking a less number than the membership of the present House?

Mr. DUNNELL. If I correctly understand the gentleman's inquiry, I will say that no calculation has been made for any number less than 332.

Mr. OATES. Then the only calculation which has been made is on the ascending scale. It occurred to me that in order to give proper information to members as to the best number to be adopted there ought to have been calculations to a certain extent on the descending scale.

Mr. DUNNELL. We have incorporated in our report a document which appeared ten years ago, addressed to Hon. S. S. Cox, from the Census Office; and we have used those tables, beginning with 332 up to 375. Those figures are taken from documents relating to the census of ten years ago.

Mr. OATES. But there have been no calculations made to show what would result from taking a less number than the present representation—300, for instance?

Mr. DUNNELL. If the gentleman will refer to the fourth page of the report he will find an interesting table showing the ratio that has been adopted at different periods from the beginning of the Government down to the present time. The ratio under the Constitution was 30,004; under the first census, 33,000——

Mr. OATES. I am aware of that; but what I wished to get at was why the committee has not furnished us with information as to what would result on a descending scale, going down, for instance, to a membership of 300.

Mr. DUNNELL. The committee has not made any such calculation, Mr. Speaker, because we were thoroughly imbued with the prevailing sentiment in the House. Hardly any one favors the present number; no one has favored any less than the present number of Representatives. It did not occur to the committee that we should be asked to furnish a ratio for any less than 332 members.

Mr. OATES. Then, like Adam in his recollection of his fall, I stand alone.

Mr. ROGERS. Will the gentleman from Minnesota [Mr. DUNNELL] yield to me for a question or two, that I may obtain some information on this subject?

Mr. DUNNELL. I yield for a question. I suppose that in a short time we shall agree upon a division of time for debate.

Mr. ROGERS. I am physically unable to take part in the debate and also physically unable to remain in the House. I desire, therefore, upon one or two points information which I have been unable to gather from the gentleman's remarks. As I understand the thirteenth page of the report, the basis of representation adopted by the committee is 173,901. On that basis a majority fraction remains to Arkansas, Minnesota, and New York. Will the gentleman please tell me why we are deprived of the benefit of that majority fraction?

Mr. DUNNELL. The gentleman from Arkansas [Mr. ROGERS] is laboring under a mistake. I have been unfortunate if he has not understood me; for I have once or twice said that by adopting that number no State having a major fraction is left unprovided for. If the gentleman will multiply 84,519 by 2, he will discover that the result is less than the ratio. So with Minnesota, which has as much population as Arkansas; multiplying 84,776 by 2 the result is less than the ratio.

Mr. ROGERS. I was not aware that this bill was on the Calendar; I have been out of the House for some days, but the colleague of the gentleman from Minnesota, who has made the figures, advised me, as I understood him, that the States of Minnesota, Arkansas, and New York had a major fraction and were denied a representative for that fraction. Assuming that to be so, I was anxious to know why those three States should be denied the benefit of a major fraction while other States were not.

Mr. DUNNELL. Mr. Speaker, my colleague was mistaken if he made that statement to the honorable gentleman from Arkansas.

Mr. ROGERS. Perhaps I failed to understand him.

Mr. DUNNELL. He may have said that such would be the case adopting 359 as the number of Representatives and 172,448 as the ratio. I have already said that would be true; but it is not true with the ratio 173,901. With a membership of 359 we have a less ratio; that is to say, 172,448. Then Arkansas, Minnesota, and New York would be the three States which would make up the difference between 356 and 359. I presume that is what my colleague meant to say.

Mr. ROGERS. I presume the gentleman is correct. But does he regard 359 as a less equitable number than 356?

Mr. DUNNELL. It is equitable in that regard; but as I said a little while ago it becomes inequitable when applied to other States.

If you take 359 as the number, with a less ratio, you correspondingly run up the fractions that pertain to the other States and bring them quite near the margin. Therefore, as I said, in a general way, there must be a limit to the division. It is believed, as far as we have been able to investigate the matter, that the number selected is the best number, for the reason that it leaves the smallest number of fractions.

But I have no desire to take up so much time in the opening of this discussion.

Mr. BLOUNT. Before the gentleman gives way, as I understand him, the increase of the number from 356 to 359 gives additional representation to three States?

Mr. DUNNELL. It does.

Mr. BLOUNT. That being the case, would not an increase of 3 in the membership, over any number that may be selected, give additional representation to three different States?

Mr. DUNNELL. Certainly. If you add 3 to 359 you would get 362 members, which would give three additional Representatives. It will be determined, of course, by calculation which of the States would be affected by the change.

Mr. ROGERS. If the gentleman from Minnesota will indulge me for a moment I would like to ask if it does not occur to him that it is a little unfair that two of the States North and South, namely, his own State and mine, which by the census of the last decade showed the most rapid development of any other States North or South, as I am advised, should be deprived of the benefit of this major fraction to which they would be entitled by making the membership of the House 359 instead of 356.

Mr. DUNNELL. I suppose, Mr. Speaker, that some States would necessarily be unprovided for, or rather would have some very large fractions remaining, whatever number we might select. If you take 359 as the membership of the House you leave large unrepresented fractions to some of the other States, just as there is left a large unrepresented fraction of Arkansas, Minnesota, and New York under the 356 number.

Mr. LIND. Will my colleague yield to me for an observation on that point?

Mr. DUNNELL. Certainly.

Mr. LIND. As a matter of fact, I believe my colleague is mistaken on that proposition, for the apparent inequitableness of the number 356 is so plain on the face of it that I can not see any justification for its selection. For instance, under that number in Minnesota it will require 185,975 for a member of Congress, while in Virginia 165,000 only will be required. Now, the membership, if it were increased from 356 to 359 would leave no fraction that would present such an inequitable ratio as that. There would be no fraction that you could call approximately a major fraction, such as that referred to by the gentleman from Arkansas [Mr. ROGERS], the fraction remaining to the States of Minnesota, New York, and Arkansas under the present proposition.

Mr. JOSEPH D. TAYLOR. The gentleman is entirely mistaken in that. Mississippi, for instance, would have over 82,000 remaining, and other States also would be left with large fractions.

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

Mr. LIND. I would be very glad to do so, but I have not the floor.

Mr. CHEADLE. I merely wanted to call attention to the fact that the State of Missouri would have a major fraction remaining on that apportionment.

Mr. FRANK. Yes; Missouri would have over 92,000 remaining.

Mr. DUNNELL. I think my colleague will understand my position. There never can be an apportionment made that will not leave to quite a number of States a fraction approaching a major fraction. You can take any number in the world that you may select and you will still leave a large fraction to some of the States.

Mr. LIND. That is true.

Mr. DUNNELL. And by an examination of the table on page 14 you will see how this would stand on a basis of 359 members.

Mr. LIND. But the point is that this number is specially unfortunate in that it leaves the Western and growing States, which are showing the greatest increase in progress, with the largest fractions.

Mr. DUNNELL. That is a matter, of course, for the House to determine.

Mr. JOSEPH D. TAYLOR. That is a mistake. If you take 359 members there will be a major fraction of 92,464 in Missouri without any representation at all.

Mr. HEARD. With the permission of the gentleman from Minnesota, I wish to ask if the number of major fractions remaining would be greater under the 356 or 359 ratio?

Mr. DUNNELL. They would be quite as large under the 359 as under the 356 ratio.

Mr. HEARD. Then we had better take the lesser number, 356.

Mr. BLOUNT. Let me ask the gentleman from Minnesota if, as a general rule, the resulting fractions, taking any number as the membership, would not differ as between any two of the States?

Mr. DUNNELL. Undoubtedly, it must be so.

Mr. BLOUNT. So that we would have inequalities somewhere, no matter what number should be selected?

Mr. DUNNELL. Undoubtedly.

Mr. Speaker, I desire to ask how much time I have remaining of the hour.

The SPEAKER. The gentleman has consumed twenty-eight minutes.

Mr. DUNNELL. I will reserve the remainder of my time.

Mr. BLOUNT. I understand the gentleman is willing to consider a proposition to fix the time for the debate?

Mr. DUNNELL. That was the understanding, that at the close of my general remarks some time might be agreed upon for the discussion of the bill. How much time does the gentleman suggest?

Mr. BLOUNT. Well, Mr. Speaker, I want to suggest to my friend that we allow the debate to run on equally for a time, and if after awhile he should see fit to close the debate we will endeavor to make an agreement. It is possible we may better do it then than now.

Mr. DUNNELL. I should prefer to fix the time in advance.

Mr. MILLS. I would like to suggest to the gentleman that when the present membership of the House was fixed the debate ran on for two or three days. While I do not see any necessity for that length of time, still I think we want to discuss the matter.

Mr. BLANCHARD. On an important question like this, at least two days should be given to the debate.

Mr. DUNNELL. There were conditions then which do not exist at the present time. There were matters then involved that are not now involved. The great question here is merely the question of the membership of the House, whether it shall be 356 or something below or above.

Mr. BLOUNT. Yes; but is there not still another question? The members from New York are insisting that the count as to the city of New York was very inaccurate, and they are desirous of submitting evidence to the House with a view of asking a recount, if possible, in order to have complete justice done them.

It does seem to me that in a matter involving the political power of a great community like that for a period of ten years those gentlemen should have an opportunity to present their views to the House.

Mr. DUNNELL. Mr. Speaker, it has occurred to me that it would be very much out of place for the gentleman from New York [Mr. FLOWER] now to raise the question of the correctness of the New York census. That has been raised by the delegation from New York, and the question has been submitted to the Committee on the Census. Elaborate arguments have been adduced, and six days ago the copy of the hearing was sent to the attorney of the New York parties, and although I have desired and sought every day to get its return so that it might be printed and be here now, it has not yet been returned by Mr. Bowers.

It has occurred to me, I will say, with great respect to the gentleman from Georgia [Mr. BLOUNT], that this is not the proper time to discuss the character of the census as it may affect New York. That matter is before the Committee on the Census. The members of the Census Committee are in some respect jurors. We have not yet determined what we will do. Shall a debate be sprung here that shall embarrass the members of the Census Committee on a question which is yet before us? The gentleman from Georgia [Mr. BLOUNT] knows very well that, if it shall be discovered as a result of that hearing that New York will lose under this bill a member which she ought to have,

it will be perfectly competent for Congress to take care of the State of New York. As one of the members of the committee sitting upon the New York case, I do not wish to be called upon to say anything against that hearing or for it. The hearing is in our hands. It is for us yet to determine. New York can be taken care of, but not now.

Mr. CUMMINGS. Mr. Speaker——

Mr. BLOUNT. If the gentleman will yield to me, I will say in reply——

Mr. DINGLEY. Excuse me a moment. I have not believed that the gentleman from New York [Mr. FLOWER] would precipitate that debate at this time. I have believed that the impropriety of the thing would be manifest to him. The embarrassing position in which such a thing would put the Committee on the Census ought to be plain to every one.

Mr. CUMMINGS. Will the gentleman allow me?

Mr. BLOUNT. If the gentleman will allow me——

Mr. DUNNELL. Is all this going on in my time? If so, I shall object.

Mr. BLOUNT. I do not understand that this is anything more than an attempt to bring about a division of the time.

The SPEAKER. The Chair understands that gentlemen are endeavoring to arrange some limit to the debate.

Mr. BLOUNT. I wish to say this: I think there is a much more delicate question than the one suggested by the gentleman from Minnesota [Mr. DUNNELL]. A question is raised as to the correctness of the census. No matter how that question is sustained, pending that matter it would at least be proper for this House to defer action until it had ascertained the basis upon which the census was made. The equitable way to reach it is to first assure yourself of what your population is. That is the very question these New York gentleman have raised, and have raised in the committee. I think it perfectly proper that it should be raised here. I wish to say that when this matter was reported I expressly reserved the right to make any motion or pursue any line of argument that the New York question might suggest. And the gentlemen from New York or any other gentlemen on this floor are, I think, in order in relation to it.

Mr. DUNNELL. Mr. Speaker——

Mr. BLOUNT. I certainly do not think that the gentleman from Minnesota [Mr. DUNNELL] ought to raise any question as to the delicacy of members of the Census Committee discussing this question, when the Committee on the Census rushed into this House this apportionment bill, reserving to themselves a question involving what the amount of the population was. And it is quite as pertinent a criticism, therefore, on that line as on the suggestion that we still have the New York controversy before us.

Mr. DUNNELL. Mr. Speaker, I wish to say in reply to the gentleman from Georgia that at no time in the history of the Government has the officially announced census of the United States been brought in question when the regular apportionment bill has passed. If it has been discovered afterward that a wrong has been done to any given State, Congress has in a number of instances added another member.

Mr. BLOUNT. But here we are in the early part of the session. Why did you not wait a week or two, as you might have done?

Mr. DUNNELL. Let me say, Mr. Speaker, we have based this bill upon the officially announced census, as announced on the 25th of November, a census taken under a law passed by a Democratic Congress, under the leadership of the late lamented Samuel S. Cox. When the hearing before your committee was had—if it is proper for me to say it—the gentleman who appeared for New York admitted that they had not sought a correction of the errors alleged to exist in New York, under this law, but in defiance of the law had withheld evidence. But I do not desire to press that point——

Mr. BLOUNT. Why should we not be willing to let the gentlemen from New York present their views?

Mr. FLOWER. You ought to be willing to let us present our own case.

Mr. MILLS. I will remind the gentleman from Minnesota that the pending question is one as to the division of the time.

Mr. DUNNELL. I suggest that the debate close at 4 o'clock to-day.

Mr. MILLS. Oh, no; no, indeed.

Mr. BLOUNT. I hope that will not be done. We have now reached twenty-five minutes past 1. The gentleman from Minnesota——

Mr. DUNNELL. The matter has been under discussion now for an hour.

Mr. BLOUNT. But the discussion has been monopolized by the gentleman from Minnesota.

Mr. SPINOLA. The merits of the question have not been discussed at all.

The SPEAKER. The gentleman from Minnesota has discussed the question twenty-six minutes and the House has discussed it ten minutes more.

Mr. MILLS. Most of the time the gentleman from Minnesota has been discussing it.

Mr. DUNNELL. Has the gentleman from Georgia any suggestion to make as to the time?

Mr. BLOUNT. I think, Mr. Speaker, there at least ought to be four hours' debate, and I suppose the gentleman from Minnesota of course will be willing to yield to us such time as he may have taken.

Mr. DUNNELL. That means four additional hours.

Mr. BLOUNT. The thing we want is an equal distribution of the time between the two sides.

Mr. DUNNELL. That will be granted, of course, and the gentleman from Georgia can control the time upon the other side of the House.

Mr. BLOUNT. Mr. Speaker, I would suggest to the gentleman from Minnesota that debate continue until 5 o'clock, and that the vote be taken to-morrow, the time for discussion to be equally distributed between the two sides.

Mr. DUNNELL. I think we ought to close this question to-day. Let the debate close, then, at half past 4. That will give us ample time.

Mr. BLOUNT. That will not be sufficient. The gentleman from Minnesota will see that it is half past 1 now.

Mr. DUNNELL. That is three hours additional to the amount already consumed.

Mr. BLOUNT. The amount consumed is that which you have consumed.

Mr. DUNNELL. And the gentlemen on the other side can have two hours, which will leave for this side, to the friends of the bill, but one hour additional to the hour already consumed; call it an hour for the sake of convenience.

Mr. HOLMAN. I trust my friend from Minnesota will consent to the proposition of the gentleman from Georgia. It seems to me it is a fair proposition to make. Say that to-day be given for debate, and if any vote is to be taken—if the yeas and nays are to be taken, but I have no knowledge of such a proposition—there will be but little time consumed in that to-morrow.

Mr. DINGLEY. Is that to be immediately after the reading of the Journal?

Mr. DUNNELL. I would suggest to the gentleman from Georgia that there will be much more interest taken in the debate if it is understood we are to take action this afternoon than if we were to extend the debate until 5 o'clock without action.

Mr. SPINOLA. What is the necessity for pressing this matter through with such rapidity?

Mr. DUNNELL. Because there is a large amount of public business pressing upon the attention of the House.

Mr. SPINOLA. No election takes place under this bill for a year and a half yet.

Mr. DUNNELL. I will state to the gentleman from New York that it was the understanding that the Democratic members of the committee agreed to the report, the gentleman from Indiana [Mr. HOLMAN] and the gentleman from Georgia [Mr. BLOUNT] simply reserving the right to offer an amendment, and that report comes in here as a unanimous report of the Committee on the Eleventh Census.

Mr. BLOUNT. I wish to say, Mr. Speaker, that the minority of the committee are exceedingly moderate in their request, exceedingly so. This is an apportionment bill to ascertain the relative political power of every community in this country for the next ten years. It appears that the State of New York, with its immense population and interests, is keenly alive to the distribution made in this bill, and the minority of the committee thought it their duty to give its Representatives the right for a reasonable time to debate it and to provide for yielding fifteen, twenty, or thirty minutes to several of its members. This is something of considerable importance to them. I do not think it should be treated so lightly, and I do not feel disposed to acquiesce in the limit proposed to be placed on the debate by the gentleman from Minnesota.

Mr. DUNNELL. I will make a further suggestion: that we take a vote at 5 o'clock; and that gives three hours and a half additional debate, of which two hours can be given to the gentlemen on that side.

Mr. MILLS. I want to-day and to-morrow for the discussion of this bill. I want a vote on that proposition.

Mr. BLOUNT. I do not know how many votes are to be taken. I have no right to commit gentlemen on either side of the House as to what amendments they may desire to offer. I do not know of any purpose on the part of any gentleman, except possibly one, who desires to offer an amendment to make the number 359.

The SPEAKER. The Chair sees no prospect of agreement for unanimous consent and it looks as if the debate must go on.

Mr. HOLMAN. There will be at least one amendment, perhaps more.

The SPEAKER. The Chair sees no prospect of agreeing upon a limit to debate; and there is no other way but for the House to go on with the discussion.

Mr. HOLMAN. I think that the proposition to close debate at 5 o'clock might be agreed upon.

Mr. BLOUNT. That can not be got.

Mr. DUNNELL. I give notice that I will demand the previous question at 5 o'clock.

Mr. BLOUNT. And I will give notice to the gentleman that he will have to have his quorum here at 5 o'clock if he gets the previous question ordered.

Mr. MILLS. Make it 5 o'clock to-morrow.

Mr. BOUTELLE. I would suggest to the gentleman from Georgia that the report of the committee was delayed for several days for the minority. I understood him to say that the Democratic side was satisfied with the number which we had fixed upon.

Mr. BLOUNT. I hope the gentleman will not raise any question as to what passed between members of the committee.

The SPEAKER. The Chair would remind the House that this is proceeding by unamimous consent.

Mr. BLOUNT. I yield thirty minutes to the gentleman from New York [Mr. FLOWER].

Mr. FLOWER. Mr. Speaker, this seems to be a very important subject from the attention given it. It is to fix for ten years the subject of enumeration of this whole country for apportionment of members of the House of Representatives. My only excuse for bringing up the question of New York here to-day in addition to what has been brought up before the Committee on the Eleventh Census is that I am informed by the shrewdest parliamentarians that New York would lose her day in court if she did not take it now. New York came here to get her enumeration corrected. She has had a three days' hearing before the Committee on the Eleventh Census, which has been given patiently by that committee, and I believe it has made out a good case, such a one as I would be willing to try before any jury in the country outside of Congress. There would not be any question about it if it was Philadelphia instead of New York.

But here, no matter how impartial we are, we must align ourselves with our party, and if there is some political advantage to one side or the other I tell you, gentlemen, that I am just as willing to take it as those on the other side. [Laughter.] I shall, however, try to treat this case moderately, because the evidence before the committee is so elaborate that I desire to call the attention of every member of this House to that evidence, that it may be read, because I think it will substantiate the position that New York has taken in this matter. First let me deny that any member representing New York or any attorney representing New York has ever, before the Census Committee or anywhere else, said that they were acting outside of the law. They came to the Census Bureau, they came to the Interior Department, and asked for their rights. Now, gentlemen, I do not wish to talk about this thing further. I propose now to read to you, because in this case we have so much evidence of record that I have found it necessary to condense my views in a written speech.

Mr. Speaker, by the acts of this Congress and of the last there have been admitted to this Union six new States, which, as soon as Idaho shall have elected her two Senators, will all be represented in Congress by solid Republican delegations in both Houses. These six States have an aggregate population of 1,138,166, considerably less than one-fifth of the population of the State of New York, thus having in Congress and in the Electoral College a proportionate influence of more that five times that of the State which I in part represent.

The State of Nevada, with a population of 45,761, has one Republican Representative in this House and two Republican Senators at the other end of the Capitol, giving to each inhabitant of that State about eleven and one-half times the proportionate influence in Federal legislation and the election of the President of the United States that a citizen of my State exercises. There is not a single reliably Democratic State in this Union that has a population below the ratio that entitles the people to one Representative upon this floor under the present apportionment.

There are but eight reliably Republican States that have populations above that ratio; while upon the basis of representation with reference to which this bill is framed there is but one reliably Democratic State (Delaware) below the requisite number, while there are four States, including Idaho, now having solid Republican delegations in both branches of Congress, not one of which has a population sufficiently large to entitle it to a Representative, and one other exceeds the number by only a few thousand.

Sir, this is not an unfair presentation of the situation of Republican representation in this country to-day, and meeting it as we do upon the threshold of the question with which we are now to deal, it challenges the attention and the earnest consideration of this body. This is a measure that is to prescribe for the next decade the representation of the people of the whole country in their Congress.

It is of the utmost importance that there should be something like a fair and an equitable apportionment of representation in this branch of the Government of all the people in the various States composing the Union, and upon this idea has the fourteenth amendment to the Constitution of the United States been framed. Section 2 of that amendment provides that "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

It is the intent of that amendment that the whole number of persons in each State shall be enumerated in the census, and that that whole number shall be taken into consideration in fixing the apportionment. The amendment provides for a proportionate reduction of representation in case of the denial of the elective franchise to persons having the requisite qualifications; but there is no provision for any compensation to the State for any loss of power by reason of the failure of the census authorities to enumerate the whole number of people within it.

On the 1st day of December, when this session of Congress began, I introduced a resolution which was referred to the Committee on the Eleventh Census, providing for a re-enumeration of the inhabitants of the city of New York. The purpose of this resolution was to have the official census returns conform to the requirements of the fourteenth amendment by having the whole number of inhabitants of that city enumerated. The committee has heard the argument of the counsel for New York and also the protests of the Superintendent of the Census against this measure of justice, and there the committee seems to have rested, and the resolution is resting with it. Instead of reporting that resolution back to the House, either favorably or unfavorably, the committee has come in with this bill, wholly ignoring the application for a recount in that State and manifesting no disposition to heed the just demands of our people.

There is no occasion whatever for this great haste to reapportion representation. Within the history of the Government since the adoption of the Constitution there have been ten apportionment bills passed by Congress, not one of which became a law within one year from the commencement of the enumeration under the census act and only two of which became laws in the year next succeeding the commencement of the enumeration. All the others were enacted in the next succeeding year. The dates of these acts were as follows: April 14, 1792; January 14, 1802; December 21, 1811; March 7, 1822; May 22, 1832; June 25, 1842; July 30, 1852; July 5, 1861; February 2, 1872; February 25, 1882.

Now, in less than seven months from the beginning of the enumeration we are called upon to enact a bill of this nature, in utter disregard of the most widespread and apparently well-founded criticism to which any pretended enumeration of the people of this country has ever been subjected.

From Oregon to New York the people have sent up their protests that they have not been properly counted; but notwithstanding these protests and the demands of the people for a full and a fair enumeration, this bill is to be pushed through Congress, with but little debate and no opportunity for a fair and reasonable apportionment with regard to the whole number of the inhabitants of the various States. I do not propose, however, to discuss the matter of the census as it relates to any portion of the country except that of my own State.

As soon as it was ascertained by the municipal authorities of the city of New York that there probably was a failure upon the part of the Federal authorities to enumerate all the inhabitants of that city, those authorities proceeded to make an enumeration to test the Federal census, and the result was the disclosure of the fact that about 200,000 of the inhabitants had been omitted entirely from the census returns. Thereupon they applied to the authorities in Washington for a re-enumeration, as provided by law.

The mayor of the city of New York and the governor of that State both made application to the Secretary of the Interior, but these applications were rejected and the re-enumeration denied. That there was any purpose upon the part of the Republican Federal authorities to make a false or fraudulent or incorrect enumeration of the people of that great Democratic city, we have not charged; but we have fully stated the facts to the proper authorities indicated by the census law and have repeated them before a committee of this House. But so far we have not been given the slightest reason to hope that a re-enumeration is to be allowed us.

Under this bill the State of New York will have 34 Representatives in Congress, the same number that it now has. It is my purpose to present to this House some reasons why that number should be increased upon the basis of 173,902.

The Federal census showed a population in the city of New York of 1,513,000, and the subsequent police census showed a population of 1,710,715, a difference of nearly 200,000.

Section 9 of the census act is as follows:

It shall be the duty of each enumerator, after being qualified in the manner aforesaid, to visit personally each dwellinghouse in his subdivision, and each family therein, and each individual living out of a family in any place of abode, and by inquiry made of the head of such family, or of the member thereof deemed most credible and worthy of trust, or of such individual living out of a family, to obtain each and every item of information and all the particulars required by this act, as of date June 1, 1890. And in case no person shall be found at the usual place of abode of such family or individual living out of a family competent to answer the inquiries made in compliance with the requirements of this act, then it shall be lawful for the enumerator to obtain the required information as nearly as may be practicable from the family or families, or person or persons, living nearest to such place of abode.

This section of the law clearly and specifically sets out the duty of the enumerators and leaves no reasonable excuse, under ordinary cir-

cumstances, for a failure to make a substantially correct enumeration. If the occupants of the house are not at home and can not be reached for the purpose of personal inquiry of them it is the plain duty of the officers to resort to the next sources of information concerning those persons. The mere fact so frequently found set out in the returns of the enumerators, that certain houses were closed, is no justification for their failure to ascertain the number of persons occupying those houses.

Inquiry of those residing or doing business in the neighborhood would in nearly all cases provide them with information which, if not sufficiently accurate to enable them to make proper returns, would at least afford grounds for more particular inquiry at those places from which the usual inhabitants were then absent, and the local authorities, when it was made their duty to ascertain the number of persons within the territory to which they were assigned to make an enumeration, resorted to these sources of information with perfectly satisfactory results. The Federal enumerators had their schedules so loaded down with impertinent questions concerning the mental, physical, and moral conditions of the people that they did not seem to think it worth while to be especially particular in acquiring information as to the exact numbers that were within their particular bailiwicks.

If the Federal enumerators had properly performed their duties the subsequent enumeration made by the police officers of New York City would have presented to the country a most remarkable spectacle of the inaccuracy of those most familiar with the people and the localities of their own city. This variance of numbers is within itself, in the absence of any well-grounded charge of fraud or purposed false enumeration by the local authorities, a sufficient reason to arouse a proper suspicion that the Federal enumerators, selected not because of their special fitness for the positions they were to fill and the duties they were to perform, but mainly upon the recommendation of local Republican political organizations, were, to say the least, incompetent.

There is not the slightest reason in the world for believing that the police officers of New York City were either incompetent or intentionally inaccurate, and in this state of the case the very least that might be reasonably expected of those upon whom devolves the duty of ascertaining the whole number of inhabitants of a State is that they would take the necessary steps to verify their own enumeration, especially when the law clearly provides, as does the act of March 1, 1889, for the verification of returns.

These local authorities, after making their enumeration, selected one political division of the State—the Second ward—for the purpose of comparison with the Federal enumeration. The Federal enumeration had shown in that ward a population of 927. The police enumeration showed a population of 1,340, a difference of 413. It was found upon comparison that the Federal enumerators had included some that were not included in the local enumeration. This showing was made the main basis of the application to the Federal authorities for the retaking of the census for that city.

The selection of the Second ward was made because of the small territory covered by it and the comparatively small population. It was a ward the population of which is composed largely of persons residing in business houses, and, while it is not pretended that the discrepancy throughout the whole city is proportionately as great as here, the selection was not made because of the larger proportion of the discrepancy in this ward, but wholly for the reason that I have stated.

Affidavits of several hundred of the inhabitants of the ward were taken by the local authorities, all showing that these persons were residing at the same places when the local authorities enumerated them at which they resided on the 1st day of June and throughout the continuance of the Federal enumeration, and that they had been omitted by the Federal enumerators. Some attempt was made by the Superintendent of the Census to discredit some of these affidavits in the hearing before the Census Committee; but of all the hundreds of affidavits there presented there was nothing approaching successful contradiction in more than two or three cases. And to that hearing, which is soon to be printed, I invite the attention of this House. There are set forth clearly the grounds upon which the city of New York claims that she is entitled to a re-enumeration and the evidence of the inaccuracy of the work of the Federal enumerators. The argument and the evidence together are somewhat voluminous, and I shall not occupy the attention of the House in going thoroughly into the matter.

About the only pretense set up as an excuse for refusing a re-enumeration that is at all worthy of attention is that an enumeration made now would show a very different number of inhabitants from that shown by an enumeration taken June 1. I say worthy of attention; but I think that very slight attention will satisfy anybody that this is a mere pretense.

The people can be relied upon to disclose to the enumerators on the 1st of June everything concerning their private affairs, their mental and bodily ailments, that the census schedules called for, but they can not be relied upon to give truthful answers at this time as to whether or not they were residents of certain localities at the time that they should have been enumerated under the law. This is the sum and substance of this whole matter. If the people of New York City can be trusted to give truthful answers to questions directed at their sanity and chronic diseases, they can be trusted now to give truthful answers to the only other question that it is necessary for them to reply to in order to verify the enumeration taken in June.

Sir, this demand for a re-enumeration is no unusual or unreasonable proposition. It is a mere repetition of a demand that is made by various municipalities and States once every ten years. It is a very rare thing, if indeed it ever occurs, that a census is taken in this country which passes wholly unquestioned in every locality, and I believe that never yet has there been a stronger showing of inaccuracy of any Census heretofore taken as there has been as to the Eleventh Census in the city of New York.

Certainly there has never been as strong a demand so persistently and unanimously urged by any locality as that which has come up from my city; and yet time and again recounts have been allowed. While General Grant was President of the United States a recount was allowed in New York and Philadelphia, both on a much slighter showing than we have now presented. Kansas City, Mo., and various other cities and localities throughout the country have had a re-enumeration to verify the first returns of this census. The whole State of South Carolina was re-enumerated under the Tenth Census; and the instances of these re-enumerations have been too frequent and too many to justify any attempt upon my part to state them all.

It is not a crime to ask to be counted, and until the undignified and vituperative responses of some of the Federal officials to the requests of the New York authorities were promulgated, the people of that city and State were not aware that there was any special obloquy attached to a request for a full and fair enumeration.

If New York City is allowed to have her people counted she will be entitled certainly to one more Representative than this bill provides for, and probably to two; and it is the plain duty of this Congress to afford her every reasonable opportunity to show the full number of her inhabitants, and especially so in view of the fact that there have recently been admitted to the Union the States to which I have referred, and which will have under any circumstances a power and influence in the Government wholly disproportioned to their population.

The city of New York is ready at any time to afford every facility to the Federal authorities to make any investigation and any enumeration that they may be disposed to make. The police officers of that city are at the command of the census authorities to join with them in making a canvass of the population. Anything less than an enumeration of all the inhabitants of that city will be a plain denial of justice to our people. Political screeds, promulgated from the Interior Department and directed at the chief executive of our State, will not answer the just demand of our people to have themselves counted in the Eleventh Census.

The people of New York have made a prompt and emphatic reply to the letters of the Federal authorities in regard to this subject. They stand ready to afford those authorities every opportunity to correct the injustice that has been done and are willing to forgive the pronunciamento issued from the Interior Department on the eve of an election, if they can have an act of simple justice done them.

But, sir, if this act of justice is denied them, they will neither forgive nor forget. The spirit that seems to animate those who have control of this subject is shown by the manifestations of animosity that it has led them to make. They have quite recently given a very positive response to a political screed, and they will have in the next Congress a delegation that will be sufficiently strong to influence the Government to give them their rights. If these rights are denied them, two years from now they will send to Congress and place in the Executive Departments of the Government officers of their choice who can take a broad enough view of a great national question to accord not only to them, but to the people of every State, county, and city within our borders a full measure of that justice which is denied to them now.

Mr. MILLS. Mr. Speaker, I do not oppose the bill reported by the committee; I shall support it and vote for it when the vote is reached. But I want to submit some remarks upon the census. It is a very important matter to enumerate the population of the United States and give to the people the representation in the House which the Constitution provides. It is not the right thing to do to refuse to enumerate the people in certain localities because of the difference in the political opinion of those people from that entertained by the gentlemen who have in charge the performance of that duty. It is a strange fact, as shown by the figures, that the enumerated census of 1890 falls 4,000,000 below the estimate made by the actuaries of the Treasury Department, expert officers of the Government who have been long in their positions and whose duty it has been for years to make these estimates for the Government.

There are two of these distinguished officers. One is Professor Elliott, who has long been the actuary of the Treasury. In 1874 he made an estimate of our population running up to 1889 by a certain rule of multiplication of the population, and he made the number in 1889 64,554,000. These figures are found in the Statistical Abstract. They are official figures. And, carrying forward the estimate by the same rule by which he made the estimate from the actual enumeration of the years 1870 and 1880, the population of the United States to-day is over 66,000,000 of people—about sixty-six millions and a half—while the actual enumeration makes it sixty-two millions and a little over a half.

The enumeration makes our population in 1890 62,622,000, when by the estimates it was 62,621,000 in the year 1888. It appears, therefore, that we have lost the entire increase of two years from a basis of 50,000,000. Now, Mr. Speaker, it is not possible that these experts of the Treasury Department could have made estimates so far from accuracy. They would be utterly unfit to hold their places in the employ of the Government if they could do that. These estimates are made for official purposes.

By these estimates the Government tells the people how much taxation per capita they are paying, and publishes it broadcast to the world. The Government by these estimates tells the people how much debt they are bearing per capita; and yet gentlemen come and tell us that these actuaries of the Treasury, these experts chosen on account of their knowledge and skill in this matter, have made an estimate so wide of the mark that in a period of ten years they make a mistake of 4,000,000! Here are two of them concurring in the estimate that the population of our country this year is over 66,000,000, while the actual count brings it down to sixty-two or sixty-two and one-half millions.

Let us see now where this loss of population is found. Our friends from New York complain that they have lost enough to give them an additional member of Congress, but I affirm here to-day that their losses are not so great as the losses in my own State. The population of my State has not been enumerated by a half million or more, and to that extent we are deprived of the right of representation here. The very basis of free government is the right of the people to be represented in the popular assemblies that make the laws to govern them, and yet, it may be for partisan purposes, my people have been disfranchised to the extent that I have stated. We are reported to have 2,200,000 population, when, if you will take the vote of 1880 and the vote of 1890, the comparison will show that our population, increasing in the same proportion as the vote has increased, would be over two and a half millions, or nearly three millions in 1890.

Why is it that this thing has been done? No man can look at these figures that come from the Treasury Department and say that the population of this country has been correctly enumerated. It is absurd to say it. If this enumeration is correct and if the Superintendent of the Census and his subordinates have performed their duties faithfully, then the two actuaries of the Treasury ought to be dismissed in disgrace from the positions which they hold.

Why, sir, Professor Elliott, in 1874—and I am told that prior to that time his estimates of population approximated closely to the actual count as shown by the census when made—in 1874 he gave an estimate of population up to 1880 and beyond; and when the actual count was made in 1880, his estimates varied only 700,000 from the actual result; and, but for the great panic which set in in 1874 and continued until 1879, by which immigration fell off more than 100,000 per annum, he would have come within 100,000 of the actual count, his results being 700,000 more. But immigration fell off in 1875, 1876, 1877, and 1878, while his estimate was based upon the annual average of the immigration for five or six years preceding and upon the natural increase of population. But for the panic with its result in reducing immigration, he would, as I have said, have come within 100,000 of the actual population. But, sir, the enumeration of 1890 falls 4,000,000 below the actual population of the country.

Mr. MILLIKEN. Will my friend allow me to ask him a question?

Mr. MILLS. Certainly.

Mr. MILLIKEN. Does my friend think it would benefit his section of the country if, instead of basing the population upon an actual count by means of the census, it should be based upon an estimate made from the vote?

Mr. MILLS. No; I think that the basis in both cases is unreliable at this time. I know that in my own part of the country the vote is an unreliable basis, because 25 or 30 per cent. of my people do not go to the polls. Our vote is all pretty much on one side; and it takes a contest to bring the people to the polls. But taking the vote in 1880, when the same conditions existed as in 1890, it shows that our vote has been constantly increasing, having increased during that period over 66⅔ per cent. When the vote thus increases it is very strange that the population does not increase in the same ratio or something like it.

The "actual enumeration" provided for by the Constitution, on which the sacred right of representation on this floor is based, ought to be honestly taken; but in this last census it has not been, and my friend knows it.

Mr. MILLIKEN. Will my friend from Texas allow me one more question?

Mr. MILLS. Certainly I will.

Mr. MILLIKEN. Does my friend think it safe to argue that an actual count is incorrect, basing the argument simply upon estimates? Does the gentleman put estimates against the actual count?

Mr. MILLS. When we have the estimates of trained actuaries who have arrived at the population of the country by certain fixed rules, calculating the increases from year to year and from decade to decade, such estimates are better than a false count.

Now let my friend throw aside the question of immigration and estimate the population by the natural increase from 1800 to the present time and he will find that this increase was larger the first ten years than the succeeding ten years, there being a falling off of about 1½ or 2 per cent. each decade until we get down to 1860. From 1860 to 1870 this natural increase fell from 22 per cent. to 13 per cent.; from 1870 to 1880 it went up again to 22 per cent.; but from 1880 to 1890, according to the count which has been made, there is a fall to about the standard of the war period, when 3,000,000 men were in arms away from their homes.

[Here the hammer fell.]

Mr. BLOUNT. I yield five minutes to the gentleman from New York [Mr. FITCH].

Mr. FITCH. Mr. Speaker, I was surprised to hear the distinguished chairman of the Committee on the Eleventh Census state that it would be improper for the Representatives from New York to discuss here the question whether injustice has been done in the taking of the census of their city. It seems to me plain that this bill is based upon the census as taken, and that if there have been errors, if there is injustice in the basis adopted for this apportionment, it is most appropriate to call attention to that fact here and now. The reason we have an apportionment bill is because we have had a census; and the bill is based on the figures contained in that census. If the census in this case is incorrect, and can be so shown, certainly the voice of New York should be heard here and now in protest.

The gentleman says that his committee is acting as a jury. We do not want anything better than the ordinary rules applying to a jury trial in this country. But what we see in this case is a "jury" coming in here before the evidence is heard with a verdict on a collateral issue which decides the case and will entirely divest us of the representation which we ought to have. The gentleman says that we may be granted hereafter something that we say we are entitled to here and now by right. We do not want to come to another Congress for justice. We propose to ask of this House in common justice the same treatment that other sections of the country have received. We ask that our protest shall be heeded and our right to a recount given.

Mr. Speaker, I assume that it is as necessary that a census should be believed by the people to have been fair and just as it is that it should in fact be fair and just. And I know that I voice the sentiment of our people of all parties when I say now for the city of New York that we all believe we have, in the census which has been taken, suffered gross injustice.

The district I represent is almost evenly divided between the two parties. It is not a question of Tammany Hall or any other organization. In our district Democrats and Republicans alike, Democrats who oppose Tammany Hall as well as those who favor Tammany Hall, support most cordially the manly and energetic action taken by the mayor of the city of New York on this question. When the chairman of the Committee on the Census comes in and says that New York has admitted in any shape or by anybody authorized to speak for her that she did not protest as soon as she got the opportunity to protest, he makes a grave mistake.

The citizens in the upper part of the city, where the growth has been largest in the last decade, are unanimous in the opinion that there ought in all fairness to be a recount of the city of New York, and have submitted their evidence to that effect. I claim it is not fair for the gentleman to take the power he has in his hands as chairman of the committee pending a hearing, and, while acting as a juryman, as the foreman, indeed, of that jury, to come here and give us as an excuse for his coming the plea that we of New York are to be heard at some other time and by some other jury.

We claim that our hearing is before you. This is the body before which we must be heard. You have heard our case. You have not yet answered the complaint that we make, and yet you come in here and attempt to foreclose our rights. I tell you that there will be a unanimous revolt and protest from the members of the gentleman's own party if this injustice is done to the city of New York.

LEAVE TO PRINT.

Mr. MILLS. Mr. Speaker, several gentlemen desire to extend remarks which have been made in the RECORD.

Mr. FLOWER. Let everybody have the privilege.

Mr. FRANK. I ask unanimous consent that general leave be granted to gentlemen who have been heard or may be heard on this question to extend their remarks in the RECORD.

There was no objection, and it was so ordered.

THE APPORTIONMENT BILL.

Mr. BLOUNT. Mr. Speaker, I now yield five minutes to the gentleman from Arkansas [Mr. MCRAE].

Mr. MCRAE. Mr. Speaker, I desire to submit the following amendment to the bill, and out of my time I now ask that it be read. I also ask that it be considered as a pending amendment to be voted on at the proper time.

The SPEAKER *pro tempore* (Mr. DINGLEY). Does the gentleman offer the amendment at this time?

Mr. MCRAE. I do, to be considered as pending.

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

The Clerk read as follows:

Strike out the words "fifty-six," in line 5, section 1 of the bill, and insert in lieu thereof the words "fifty-nine." Strike out the word "six," in line 8, and insert in lieu thereof the word "seven." Strike out the word "seven," in line 26, and insert in lieu thereof the word "eight." Also strike out the words "thirty-four," in line 34 of the bill, and insert in lieu thereof the words "thirty-five." Also strike out the words "fifty-six," in line 3 of section 2, and insert in lieu thereof the words "fifty-nine."

Mr. McRAE. I do not desire to detain the House, Mr. Speaker, except to explain briefly the purpose and effect of the amendment I have offered. As will be seen by the reading of the amendment, it will fix the number of Representatives in the House for the next decade at 359, instead of 356, as the bill proposes; and the other necessary changes in the apportionment are proposed. This change, if made, will give to the States of Arkansas, Minnesota, and New York each one additional member. If we are to have an increase in the Representatives upon this floor, I see no reason why we should not say 359, as well as 356.

There are strong reasons why the three States I have named should each have an additional Representative, as proposed by my amendment. It is the fairest and most just basis that can be adopted, if we increase the Representatives at all. There ought to be no objection to it, and I hope there will be none.

Now, Mr. Speaker, so far as my own State is concerned, I think that she is justly entitled to this additional Representative. Taking the number of members at 356, as the Committee on the Census have done, Arkansas will have the largest fraction for which she will get no Representative of any State in the Union except New York. That fraction is 84,773, larger than the whole vote in Idaho, Nevada, or Wyoming, and yet each of these States will have three votes in the Electoral College. We have made about the largest gains in population and resources of any of the States during the last decade. The gain in population as shown by the imperfect census is over 40 per cent. The population in 1880 was 802,525; by the returns for the present year we have 1,128,179, making a total gain of 325,654. I will not at this time discuss the correctness of the census. It is about all we will get, and some bill will have to be based on it. If a fair one is presented it ought to pass now. In view of the complaints from the city of New York as to the errors in the enumeration as well as the large fraction left in New York unrepresented; in view of the fact that Minnesota and Arkansas, as far as past elections would indicate, are opposite in politics and both show a rapid increase in population and still growing, it seems to me that this amendment would meet the approval of the committee, the House, and country.

We should, in my judgment, adopt a basis which would leave these growing States with the largest unrepresented fractions, as 356 will do. I appeal to the House to do justice by these States, including Arkansas. There is no unfair political advantage sought by the amendment which I have proposed, and I hope, without regard to party, the House will adopt it, so that if the bill is to pass it will be as unobjectionable as is possible to make it without reducing the representation of some States.

[Here the hammer fell.]

Mr. BLOUNT. I now yield five minutes to the gentleman from Ohio [Mr. OUTHWAITE].

Mr. OUTHWAITE. Mr. Speaker, this Congress was elected before this census was taken. Only once before during this century has the Congress which was elected before the census was taken attempted to reapportion the representation of the people. Ample time and opportunity were always given for careful investigation, the correcting of errors, and supplying omissions before using the enumeration for reapportionment. There is under consideration before the committee which reported the bill, and they have seen fit to give it a hearing, the question as to the correct enumeration of the city of New York. The chairman of the committee says that if upon investigation it should appear that New York is entitled to one or two additional Representatives, Congress will take care of them.

If New York be entitled to this Representative it can only be by virtue of the fact that New York has a population of from 200,000 to 350,000 more than is given by this census. If that be so, then the population of the United States would be increased by that amount and it would change the relationship of representation of all the other States. The difference between the ratio for a certain number of Representatives and one member in addition, as I have figured it out, is only 554. Referring to these tables we find the difference between the ratios generally is between five and six hundred. That difference in the ratio running through might change the representation of several of these States. To give New York one on two additional Representatives without considering her additional population in fixing upon the ratio might thus work injustice to other States. New York does not ask this. She does ask that justice be done her people and that the whole people be fairly treated.

There are other States which have cause to suspect that an inefficient census of their inhabitants has been taken.

While speaking on this subject, I call the attention of the House to the fact that, as I believe, great injustice has been done to the State of Ohio. I hold in my hands a few tables, giving the population of the State of Ohio in each decade from 1870, 1880, and 1890, and giving the vote of the State of Ohio in 1870, 1880, 1882, 1884, 1888, and 1890, and giving similar figures with regard to the State of Illinois.

TABLE A.—*Population and total vote of Ohio.*

Year.	Population.	Total vote.
1870	2,665,260	429,587
1880	3,198,062	724,941
1882		632,180
1884		784,807
1888		841,941
1890	3,672,316	741,716

Percentage of increase of population: 1880 to 1890, 14.65; 1870 to 1880, 19.99.

TABLE B.—*Population and total vote of Illinois.*

Year.	Population.	Total vote.
1870	2,539,891	313,502
1880	3,077,871	622,159
1882		528,201
1884		672,849
1888		747,781
1890	3,818,536	676,133

Percentage of increase of population: 1880 to 1890, 24.06; 1870 to 1880, 21.18.

By this census it seems that Illinois becomes the third State in the Union. It is not true, Mr. Speaker, that Illinois has grown so rapidly and Ohio has fallen off in such a degree as to entitle Illinois to be considered the third State in the Union. If you will observe the vote cast in the State of Ohio and the vote cast in the State of Illinois each year, it has been nearly 100,000 more in the State of Ohio than in the State of Illinois. Even as late as 1890 the vote in the State of Ohio was greater than the vote in the State of Illinois by 65,583. The population of Ohio in 1870 was 125,369 more than it was in the State of Illinois. The vote was 116,085 more.

In 1880 the population of the State of Ohio was 120,191 more than the population of the State of Illinois and the vote was 102,782 more. In 1890 the population by this census, incorrectly taken, gives Illinois 146,220 more people than it gives the State of Ohio, and yet we had 65,583 more votes cast at the recent election. Ohio is entitled to as many Representatives as Illinois. She is still the third State in the Union.

Mr. TAYLOR, of Illinois. We have not so many repeaters in the State of Illinois as you have in the State of Ohio.

Mr. OUTHWAITE. Does the gentleman believe that, when he remembers that the city of Chicago is in the State of Illinois? I will not stop to discuss that in this five minutes. I have called attention to these facts as showing another grave inaccuracy in this census, as presented to us to act upon at this time. Corrections are asked on behalf of the city of New York, and there should be corrections made on behalf of that great city if it has been unjustly dealt with, as is stated. And if that is true, then this whole census might well be revised and corrected, even though the expense should be great. Then the ratio of representation should be recast so that it should be apportioned among the States as it is intended to be apportioned among them by the Constitution, according to numbers, and not according to schemes or plans for political advancement.

I can congratulate the committee upon one feature of this bill. They have seen fit to omit that provision to have the general assemblies of the Legislatures of the States elected after this date redistrict the States where that may be necessary, and that provision preventing a second redistricting during the ten years, both provisions intended by them to secure partisan advantages from their point of view a few months ago. They have seen fit to make other modifications, to leave out other obnoxious provisions, for which I congratulate them. I hope it was wisdom and patriotism and not fear of the people that made them do so. I will not insinuate that it was sinister selfishness which prompted them to abandon such schemes.

[Here the hammer fell.]

Mr. QUINN. Mr. Speaker, as a representative in part of the city and State of New York I am compelled to protest from my place in this House against what seems to be the policy of the majority of the Committee on Census and against their opposition to a recount of the population of that city.

It can not be denied, Mr. Speaker, by any fair-minded man that there is great reason to believe that a great wrong has been done by some one, in the face of the incontrovertible facts presented to you by the mayor and other authorities of New York, wherein it is shown that in the Second ward whole families have been passed over, have never been visited by a Government official enumerator, and consequently have been as much ignored as if they had never been in existence.

No Representative on this floor can afford to place himself in opposition to the resolution offered by my distinguished colleague [Mr. FLOWER], and which provides that the Secretary of the Interior be di-

rected to cause a new enumeration of our city. This is not a partisan question. This is a patriotic, a national question. The glory of every land is in her population, and the duty of every American Representative should be to see that an honest count be taken, a count of our population which would satisfy every man in the country.

I do not charge the Superintendent of the Census, Mr. Porter, with having desired that an unjust enumeration should be had. No; I am more likely to believe that a class of men were employed as enumerators who were either not responsible or were not qualified, or it may be both.

On the other hand, when, after the health board of New York fully proved that a miscount had been made, the mayor and common council took steps to count accurately one of the wards of the city, this task was intrusted to the police department, assisted by a staff of able clerks in the mayor's department.

They selected the enumerators from the members of the police force, from a body of men that for ability and intelligence are not equaled by any similar number of like officials in the world.

And what has been the result? In that thinly populated ward over four hundred citizens of the district had been overlooked.

The question of expense in taking a new census has been spoken of by some gentlemen on the other side. What is the expense compared to the justice that would be done by a recount? An honest recount, which I hope will be decided upon, will show that the city of New York has a population of nearly 200,000 souls more than the returns of the Census Department show. This is sufficient justification for every Representative here to lay aside partisanship, to lay aside particular prejudices as to location, and let manhood and justice alone influence him in the faithful performance of his duty, not alone to the imperial city of our country but to the whole country at large.

Pass this resolution and then you will have performed that duty in a manner that will reflect credit on yourselves and bring honor on the land we love so well.

Mr. DUNNELL. I yield twenty minutes to the gentleman from Missouri, unless the gentleman from Georgia desires to dispose of other time.

Mr. FRANK. Mr. Speaker, I believe that the chairman of the committee voiced the sentiment of the majority of the Committee on the Eleventh Census when he said that he regretted that the members from New York or the gentlemen upon the other side saw fit to allude in this debate to the appeal of New York City for a recount. I agree with him that that would be inappropriate at this time; but inasmuch as the closing sentence of the gentleman from New York [Mr. FLOWER] were these words: "Justice has been denied them," I shall address myself for a few moments to that matter.

It was not contended before the Committee on the Eleventh Census that the State of New York had complied with the provisions of the census act with respect to the correction or an amendment of the returns. They did not claim that there had been a pestilence or a famine or an Indian outbreak or a revolution which had prevented an honest, a fair, and a correct enumeration.

They did not claim that the enumeration was made imperfectly or incorrectly, out of fraud or design on the part of the authorities, but they came before the committee and said, "We appear before you, not as having complied with the provisions of the act, for we have not, but we believe under the precedents which we can show you that we would be entitled to a recount, in order, not that we might have just representation, but in order that there might be an accurate knowledge of the actual number of people in the city of New York on the 1st day of June, 1890."

Gentlemen who appeared before that committee cited the California case, in which the Committee on the Judiciary had reported to Congress that it was of course within the power of a legislative body to give additional representation to any State if the enumeration had not been complete, as was claimed in the case of the State of Nebraska, where the enumeration was imperfect because there had been an Indian outbreak at the time the enumerators went to enumerate.

I believe that we can with perfect propriety leave that matter just where it is. As for myself, if New York is entitled by the equity of the case to a recount upon an examination of the evidence, I shall certainly and gladly vote to give it to her; and, if it is found that in this ratio established by this bill New York has been deprived of a Representative, I shall vote, if it is in my power to do so, to give her an additional Representative.

Now, Mr. Speaker, I will devote myself to the merits of this bill. This bill of reapportionment is an apportionment based upon principles of fairness, justice, and equality. The number determined upon, 356, was selected as the number of Representatives to be "apportioned among the several States according to their respective numbers," under the language of the Constitution; and you will naturally inquire why this number was selected. I answer that by saying that I am opposed to increasing the size of the membership of this House, except for one purpose, and one purpose only: that of preserving without diminution the representation of every State upon this floor. Now, this is accomplished by the bill which I proposed, and which is this bill, and which has met with the approval of the whole committee.

If you go beyond that number no convincing reason can be given why you should do so; still further, that no reason can be given for going a step beyond that; and you will be constantly met with a similar reason for going beyond that number. The basis of this apportionment is a population of 173,901 for each Representative in Congress. The fraction resulting from a division of this ratio into the population of each State exceeding the moiety of that fraction entitles the State possessing that fraction to an additional Representative.

Now, the population of the United States entitled to representation under the Tenth Census was, in round numbers, 50,000,000 of people. This representation was the ratio of 1 to 151,912. The population of the United States entitled to representation under the present census is 61,908,906, which you will see upon a mathematical computation is just about 20 per cent. The percentage of increase in the ratio of representation from 151,912 to 173,901 is 15 per cent.; and the increase of members from the number under the Tenth Census (of 325) to the number under this apportionment bill (356) is just about 10 per cent.

Now, with respect to fractions. The fractions of the ratio have been recognized and approved by the House in the last five apportionment bills. Not until 1830 was any bill based upon a division. Up to that time the result was reached by a bargain between the members of the different States; and as a matter of fact not until 1840 was a mode of computation fixed upon which provided for fractional representation. That grew out of the fact that the entire system of electing Representatives in Congress was changed by the act under the census of 1840, electing them not as members from the States at large, but from the districts.

Mr. BUCKALEW. A single district.

Mr. FRANK. By single districts, as suggested by my friend from Pennsylvania.

Now, that required that there should be an absolute ratio for representation in order that each Representative should have in his district the number that has been apportioned under the ratio of representation; so that in brief the history of legislation on this subject, which is very interesting, is given in Mr. Prescott's statement in the debate in the Forty-seventh Congress.

I quote from the speech of Mr. Prescott, of New York, the chairman of the Committee on the Tenth Census, as found in the CONGRESSIONAL RECORD of the Forty-seventh Congress:

> There was partly, or wholly, in use in determining the apportionment, first, the Constitution, with its absolute allotment; second, go as you please and get all you can from 1790 to 1830; third, the number resulting from an even division of each State by the number determined for a Representative in 1830; fourth, the number upon an even division increased by one for a fractional moiety in 1840 and 1850; fifth, the number of members being determined, to apportion upon an even division to each State, the remainder not thereby apportioned to go to those States having the largest fractional remainder, in the order of the amounts of the same.

Now, having this method before them, it was attempted in the Forty-seventh Congress to absolutely discard all these methods of computation and adopt what it was supposed would be an absolutely accurate rule, properly interpreting the Constitution. This rule was called, after the originator of it, the "Seaton plan." After many days' discussion in Congress, however, many mathematical paradoxes became apparent, and the whole plan was discarded. I remember, from reading the debates, that the late Mr. Cox, who, in the Forty-sixth Congress, had been converted to the Seaton plan, upon which plan the bill was actually reported by the committee, came back and stated in the next Congress that he had been deceived by it; that it was unscientific and inaccurate and ought not to obtain.

Mr. OUTHWAITE. That was the result of having the subject considered by "a deliberative body." [Laughter.]

Mr. FRANK. Now, there can be but one mathematical rule, and that rule will give fractional representation. Justice must be done to both sides and is demanded to meet the requirements of just representation under the Constitution. The right of representation is conferred upon the States, not upon the people. It is conferred upon the States and apportioned among them according to their respective numbers. The whole number in all the States being first ascertained it follows that the fairest way to give each State its due quota is to divide the total population of that State by the amount of the ratio and give to the State having a moiety of one-half of the ratio an additional Representative.

And right here let me say to my friend from Arkansas [Mr. MCRAE] that in adopting the number 356 we have followed both methods of computation, namely, that which prevailed prior to 1850 and the method which has prevailed since then up to the present time, the difference being this, that a moiety of a fraction, that is a resulting fraction which is greater than one-half the ratio, entitles a State to an additional Representative, and not simply the highest resulting fraction, irrespective of the fact whether it is a moiety of the ratio or not. Taking 356, on an even division you get 339 members; leaving 17 still required to make up 356, and those 17 additional members are accorded to States where there is a resulting fraction which amounts to more than a moiety of the ratio.

Mr. MCRAE. If you will permit me, I do not complain of the method by which you get at the result, but I complain of your taking 356 and

thereby discriminating against two States which show, perhaps, the largest increase of any in the country. You ought to have taken 359.

Mr. FRANK. The same would be true if you took any other number, because when you reach 359 and accord to Arkansas, Minnesota, and New York an additional Representative each you discard and leave unrepresented States that have a larger fraction than a moiety of your ratio. My own State having a fraction of ninety-two thousand would be left without a Representative.

Mr. McRAE. I do not ask you to do that. I am willing to stop at 359.

Mr. FRANK. But I say that taking 359 Missouri would not get what is justly due her.

Now, gentlemen, this bill was conceived in a spirit of fairness and was prompted by a sense of justice and equity. It would have been within the power of the majority of this House to present to you a bill which would, from a partisan standpoint, have given them far greater advantages, measured of course by the success of the party in 1888.

Whether such a course would have been just and proper I will leave for others, but as for myself, in times of peace and quiet, without any questions dividing the two great political parties which would in any way affect the safety or preservation of the Republic, I believed that the only proper apportionment was one which would give a just, fair, and equitable representation of the population of the entire country, so that there would be no curtailment of the representation of any State, and which at the same time would give to those States which have grown in population, and consequently have diversified interests, that additional representation which they require.

Now, in considering the matter of the apportionment of members several things at once present themselves for your consideration. Among them is the question of what relation this body should bear in its numbers to the Senate? Or, to put it in another way, what relation should the number in the Senate bear to the number in the House of Representatives? The proportion between 88, the number in the Senate, and 356 would be a fair proportion with reference to the average proportion which the numbers in the senates of the various States of the Union bear to the numbers in the lower legislative bodies of the States, and that is also true with respect to the proportion between the legislative bodies on the continent of Europe—France, Germany, and Italy.

Another matter calling for consideration was the suitability of this Chamber for an enlarged number of Representatives, the increase being twenty-four. It is not believed that the architectural condition is a material objection to the change. Now, I freely admit that there might and would be greater deliberation in a House of Representatives having a smaller number than 356; but so long as Congress indulges in special class legislation, in private bills, instead of confining itself to general national legislation, it is absolutely indispensable that the number of Representatives be increased.

This bill, based on this view of conservatism, equality, and justice, has received the almost universal approval of the press of the country, that unfailing and reliable source of public sentiment. I yield to no man in my fealty to the Republican party. I believe its principles will triumph under just representation; I have no fear of the result. When, however, party principles teach that partisanship which demands legislation to perpetuate the party in power, then I shall cease to believe in its teachings. [Applause.]

Mr. DUNNELL resumed the floor.

Mr. FLOWER. Will the gentleman allow me to offer an amendment? I do not want to speak upon it; I desire to have it pending.

Mr. SPINOLA. I ask that it may be reported.

The SPEAKER *pro tempore* (Mr. DINGLEY). Does the gentleman from Minnesota yield?

Mr. DUNNELL. I do; let it be read.

The SPEAKER *pro tempore*. There is already one amendment pending. Does the gentleman desire that these several amendments be pending?

Several MEMBERS. Oh, yes.

The Clerk read the proposed amendment of Mr. FLOWER, as follows:

Amend in line 24 by striking out "four" and inserting in lieu thereof the word "five;" so as to read "New York, 35."

Mr. DUNNELL. Mr. Speaker, I now yield ten minutes to the gentleman from Ohio [Mr. JOSEPH D. TAYLOR], a member of the Committee on the Census.

Mr. JOSEPH D. TAYLOR. Mr. Speaker, this is not the time for the amendment just proposed by the gentleman from New York [Mr. FLOWER]. He claims that there was a miscount in taking the census of the city of New York in June last. That question is now pending before the Census Committee. Elaborate arguments have been made and a great deal of time has been given to the consideration of this question, but no decision has been reached. The evidence and arguments were only closed a few days since and they have not yet been printed. Aside from the fact that we have no evidence before us, there is a manifest impropriety in discussing this question before the committee has reached a conclusion or made its report. I know that the gentleman from New York has made allusion to it and discussed it at considerable length, but I think this was a mistake. I know also that he has made charges not only against the law, but against the manner in which it has been executed.

Let that pass for the present. That will be a question for the future. But I want this to be remembered, that the gentlemen who represented the city of New York before the Census Committee did not claim that there was any attempt upon the part of the Superintendent of the Census or upon the part of anybody else to make a false count or to perpetrate a fraud of any kind upon the city of New York. They did not even charge carelessness or neglect. They conceded the Superintendent of the Census intended to do his duty and aimed to take the census fairly and properly. There was no attempt in any evidence that was produced or in any argument that was made to smirch the character or question the ability of the Superintendent of the Census. Nor was there a single intimation that he was influenced by any partisan bias in anything he did or in anything he did not do. I desire to say this much for Mr. Bowers, who represented the New York authorities, whatever others may say on this floor.

They also admitted that the two enumerators who took the census in the Second ward, referred to by the gentleman from New York, were not only honest men, but competent enumerators. One of them had been an enumerator ten years before, and the other was a competent and experienced business man. They also admitted another thing, that the New York officials had not attempted to avail themselves of the provisions of the law under which the Eleventh Census was taken. They admitted that they had not complied with the provisions of that law or attempted to do so. They only came before Congress for a new measure, to get a new count. Now that is all I propose to say about that.

Mr. FLOWER. Will the gentleman permit a single remark?

Mr. JOSEPH D. TAYLOR. Yes, sir.

Mr. FLOWER. Failing to get their rights at the Census Bureau under the old law, the representatives of New York did apply to Congress for relief under a new law; but before the Superintendent of the Census and before the Secretary of the Interior they sought redress under the old law, and never claimed anything else.

Mr. JOSEPH D. TAYLOR. The gentleman is mistaken, as the printed evidence will show. They did nothing within the time provided in the law. Mr. Bowers admitted that they had never brought themselves within the provisions of the law. His argument was based on the ground that they now made an equitable case for a recount. He admitted that the law provided a remedy for cases of this kind, and that they had not availed themselves of its provisions.

It was claimed by the gentleman from New York [Mr. FLOWER], in his remarks made in the House to-day, that the schedules were loaded down with impertinent questions so that it was impossible to ascertain the facts. It does not become a Representative of New York to make that kind of an accusation against the Superintendent of the Census, when every question embraced in the schedule was included in the law and the law was framed and presented to the Census Committee and to Congress by the late Hon. S. S. Cox, of New York, one of the most distinguished Representatives that that or any other State ever had on this floor. It was more his law than it was the law of Congress. His interest in the taking of the census and his great ability in managing this kind of legislation are well known in this House. He was the one man to whom all others deferred when a census was to be taken. This is all I propose to say about the manner in which the New York census was taken, and much more than I intended to say when I began.

Mr. Speaker, though this is a very important bill, and far-reaching in its effects, its preparation was an easy matter. In determining the number of members it was soon ascertained that there was a disposition on the part of the House not to reduce the representation of any State of this Union. This fact having been ascertained, all we had to do was to glance over the tables prepared by the Census Bureau, which disclosed the fact that 356 was the lowest number of members that did not reduce the number of Representatives on this floor from any State of the Union. And if you will look over the increase in representation made from decade to decade you will find that we have added to the present membership almost precisely the average number of the increase made from time to time during the last hundred years.

The first addition to the membership of the House was made after the first census in 1793. The membership of the House was increased from 65 to 105. In 1803 it was increased from 105 to 141. The apportionment under the next census added 40 members to this number, then 32 were added, then 27, and in 1843 and in 1853 10 additional were added each time, the next 27. The next decreased the membership 17; they next added 10; and again at the next decade 10 more, and in 1873 added 50, and in 1883 they added 32 and we now propose to add 31 to the membership of the House as fixed by the act of 1882 after the Tenth Census was taken. So that the average addition, from decade to decade, to the membership of the House has been 30.8 members and we are now adding 31 members. Hence you will observe that we are simply following, in this increase of membership, the average judgment and wisdom of a hundred years. This Congress under the last apportionment numbered 325, and it has since been increased to 332, to which we propose to add 24 and make the number 356.

So that, Mr. Speaker, this is a conservative bill. It is going along

in the line that we have traveled for a century, and there is no politics in it.

I confess I was somewhat inclined to support a bill a little more partisan in its provisions. If we had taken 345, for instance, as the membership of the House, that would have given a net Republican gain of 17 members, as States are supposed to vote, while this bill will only give a Republican gain of 10. If we had taken 349 we would have had a great political advantage. But in order that the bill should be fair, just, and conservative, divested of all political considerations, and in order that the committee might be unanimous in supporting it, in order that there might be no obstacles in the path of its progress through the House we very cheerfully consented to eliminate all partisan considerations other than those based on securing a fair and just representation to all parts of the country and to every State in the Union, and hence we agreed upon the number 356.

For my own part I should have preferred a smaller House, although it would have the effect of decreasing the Representatives from my own State. I think fewer members would dispatch the business of the House more rapidly and perhaps more efficiently. In a smaller House a greater amount of business can be transacted than in a large and unwieldy body. Too large a House is too much like a mob. When there are so many names it takes more time to call the roll and the expense is correspondingly increased. But in a great measure of this kind, which involves the interests of sixty odd millions of people, it is impossible to follow out the wishes of any single member. We must concede something; we must compromise; we must take some medium ground which is fair and just to all parts of the country and to all political parties.

Mr. Speaker, I wish also to say that the manner in which this bill has been prepared is precisely in accordance with the methods which have been followed for the past forty years in framing apportionment bills. There are different ways of making an apportionment, but I think this is the only correct way. This method was adopted in 1860, 1870, and in 1880, or in the apportionment bills following the census taken at these dates. In 1882 the committee reported a bill on another plan, on another principle; but the House disapproved it and adopted the present method in its stead. This much can be said of this bill, that every single membership of the House is founded on the general principle laid down in the Constitution of the United States as a fundamental law for the proper distribution of representation. It is this, that the population of the United States shall be to the population of any given State as the membership fixed by the bill, 356, shall be to the number of members which such State is entitled to under the bill.

Proceeding in this manner, in my own State for instance, all you have to do to find the representation to which Ohio is entitled is to take the population of the United States for the first term of a ratio and the population of the State for the second; and as the population of the United States is to the population of the State, so is 356, the whole membership of the House, to 21, the membership from that State. And as it is with Ohio so it is with all the other States of the Union. This is the only constitutional method of apportioning the membership of the House. As the Constitution gives to a State one member, no matter how small its population, and as 173,901, the number which is entitled to one Representative in this bill, will not divide equally into the population of the several States, there must be fractions, as there would be no matter what ratio is taken; but we have given a Representative to every State that has a fraction over one-half of this number or to every moiety fraction. Hence no bill could be less objectionable than this one.

[Here the hammer fell.]

Mr. DUNNELL. I yield now ten minutes to the gentleman from Pennsylvania [Mr. BINGHAM].

The SPEAKER *pro tempore*. The gentleman has but six minutes of the hour remaining. If there be no objection, however, the gentleman from Minnesota will be recognized to control the remainder of the time in support of the bill.

There was no objection.

Mr. BINGHAM. Mr. Speaker, I had the honor of being present and hearing the testimony submitted by the counsel representing the city of New York, at their request, before the Special Committee on the Eleventh Census, and during that hearing I availed myself of the opportunity of making memoranda of the utterances and declarations of counsel, together with the claim for consideration submitted by the representatives of the city of New York in request for a recount.

It is known to every gentleman in this House that the statute under which the census has been recently taken was a carefully prepared, thoroughly examined, and deliberately determined piece of legislation, predicated upon an examination of a number of statutes preceding that under which we have operated; and in the present law the greatest care, so far as language can go and so far as providing punishment for a violation of duty goes was exercised, in order that the subordinate officers who would be intrusted with all the details under the census enumeration should not only be thoroughly informed as to their duties, but at the same time fully understand that a violation of their obligations would be followed by punishment.

New York received, in the selection of the supervising officers to take the population, the same careful judgment of the census administration which was given to every other State of the Union. It is the pride of this Administration, as it should be the pride of every American citizen, that the growth in the population of the United States as well as in material development in all of our industries justifies us in maintaining the belief, which we have maintained, that we are one of the leading factors in the civilization of the nineteenth century.

It is well known and recognized by all that the adjustment, under the statute, as to the relation of population to representation on this floor must be predicated upon a distinctive basis of population, and all sections of the country under such an adjustment should be fairly represented. The best evidence of the success of the principle is the action of the Committee on the Census in presenting this bill, seemingly to my mind, from what I heard in the committee, acceptable to both sides of the House.

New York City complains that there was not a just and fair or that there had been an incomplete and unreliable census taken of that city. The law is distinct, clear, and well defined as to where a municipality or a section of a State believes that an incomplete census of its population has been taken; the mode of procedure is outlined distinctly in order to secure a recount, and in every case that has been submitted to the census administration where the testimony showed an incomplete or unreliable count, with the exception of the city of New York, a recount has been made by that bureau. The law provides:

> Whenever it shall appear that any portion of the enumeration and census provided for in this act has been negligently or improperly taken and is by reason thereof incomplete, the Superintendent of the Census, with the approval of the Secretary of the Interior, may cause such incomplete and unsatisfactory enumeration and census to be amended or made anew under such methods as may, in his discretion, be practicable.

I submit, sir, that New York City has never fully complied with the requirements of this statute as did every other city of the country which appealed for a recount and duly received the same. The promulgation of the population of New York City was made by the Census Office on the 18th day of July and from that date to the 5th day of September not a single complaint had been heard. During all that period a special agent was employed to look up all cases where persons claimed they had not been enumerated.

In addition, requests were made through all the newspapers, and generally responded to, calling attention to the fact that any persons not enumerated should send their names to the supervisor, and steps would immediately be taken to enumerate them. In this manner nearly 2,500 names were secured, which in my judgment is not an excessive number of omissions in such a large population as the city of New York.

While the Census Office were busily engaged in making corrections of the enumeration so far as there had been omissions, the only people complaining, the mayor and board of health, were making no move in the matter, though the office of the supervisor was only half a mile from the health office and a mile and a half from the city hall. It is also a fact to be remembered, which the printed testimony will exhibit, that the complaints were merely worked up by the mayor's secretary and Mr. Kenney. There seemed to be no one back of the declaration of an improper count in the city of New York save the mayor and his secretary. Your boards of trade, your chambers of commerce, and all the other important industrial and business organizations of your people have made no official utterance or declaration of condemnation or claim for recount.

The first thing that came to the Census Office was a set of resolutions of the board of aldermen of the city of New York, and I think every gentleman on this floor, who will read the printed testimony, will see upon what flimsy pretext the board of aldermen called upon the Superintendent of the Census for a recount. If any line of argument was ever destroyed by official figures—and my time is not long enough to submit them—the Superintendent of the Census, taking up in detail every resolution of the board of aldermen, condemned each one so clearly that he may read who runneth.

It was shown that vital statistics did not indicate that the population was not enumerated; that no reliance whatever could be placed on the statistics of votes, as the returns of the police presented very singular vagaries, in cases where it was shown that only one person in fourteen voted and in other cases only one in seventeen voted. The statistics of transportation, trade, and general observation of citizens were not to be relied upon for purposes of estimating, in place of the actual count of the people; while statistics of education—the statistics predicated and based upon the number of children in the schools—carried out almost number for number the enumeration of the census subordinate officials.

Mayor Grant, on October 16, demanded a recount from the Census Office, and the Census Office offered to hear him, as it had heard every other city that had made a complaint, and give careful consideration, if he was willing to furnish data to work on and material to enable the Census Office to investigate as to the truth of the assertions made. Singular as it may appear to this House, Mayor Grant did not accept this offer, but carried his case to the Secretary of the Interior, and there it rests, so far as the Superintendent of the Census is concerned.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. BINGHAM. I ask for a little longer time.

Mr. DUNNELL. I yield to the gentleman from Pennsylvania five minutes more.

Mr. BINGHAM. On the 14th of November the Superintendent of the Census addressed this letter to Mayor Grant:

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, November 14, 1890.

SIR: I shall be obliged if you will cause to be prepared and sent for the use of the Census Office a certified copy of the number of persons in each election district in the city of New York as shown by the recent enumeration made by the police department of your city (October 1, 1890), acting under instructions from yourself.

It is well to remember that the official census was made June 1. The census made by the police force in the city of New York was made October 1.

He further said:

I am aware that this information was printed at the time in the newspapers of New York City, but for purposes of official use you will see the necessity of having an authenticated copy of the same. A prompt reply will further oblige,

Very respectfully,

ROBERT P. PORTER,
Superintendent of Census.

Hon. HUGH J. GRANT,
Mayor, New York City, N. Y.

On the 14th day of November Mr. Porter, believing that New York City was sincere in the allegation and in the charge of an incomplete census, believing from what he had read in the newspapers that the data had been secured from the police count, the mayor having made his official complaint to the Superintendent of the Census and to the Secretary of the Interior that an incomplete count had been made, believed that the testimony would be given to the Superintendent of the Census in the next mail in order that he might carry out the requirements of the statute, thereby to effect and consummate by official acts a recount which must be upon testimony submitted to the Bureau. But, from that day to this, not even an acknowledgment of this letter has ever been made by the mayor of New York, addressed to him on November 14, up to this date, December 16, 1890.

If he had this testimony to prove clearly an incomplete count, it would have been to-day in the hands of the census officials of the country, in order that they might make the same determination and reach the same conclusions as have been reached in over a hundred cities where there has been a claim of incomplete return or count.

There can be no reason for this except the fact that they can not give the information. If they were able to give the population by the 947 districts into which they divided the city, that letter would have been answered promptly. If it had been possible for them to say that they could give it at some future time, they would have answered the letter and named the time.

I am satisfied that they could neither give the information now nor name a time when it could be given, and hence their legal advisers had to choose from two alternatives, either to ignore the letter or to frankly state that they could not give the count by districts. Any lawyer would have advised the former course, namely, to ignore the letter. It is emphasized by the fact that Mr. Bowers, attorney in the case, has been unable to bring the police population to the committee by districts, and filed certain affidavits to show that the totals were correctly added, when with a mere presentation by districts any one could have added them up and proved the correctness of the figures without affidavits.

We heard their attorney before the Committee on the Census. And what did he bring us? He brought us two books containing a recount by two policemen of the Second ward of the city of New York, and upon that testimony he claimed that there should be an entire recount of the city.

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

Mr. BINGHAM. In one moment. That was the first evidence of any kind whatever officially submitted that the Superintendent of the Census ever received from the authorities of New York City, and he got that only because it was submitted as testimony before the Committee of the Census, and therefore came into possession of the committee, submitted by the attorneys in the case. Now I will answer the gentleman's question.

Mr. FITCH. Did he not prove to you that the census enumerators had left out not only people, but a number of houses in the Second ward?

Mr. BINGHAM. I have but one word to say in reply to the inquiry. After the statement had been made and the books were submitted to the Superintendent of the Census, in forty-eight hours, having received these books on the Friday night, he submitted his testimony on Monday morning, showing the innumerable errors made in the count by the police force.

Mr. FLOWER. And all disproved by his own records.

Mr. BINGHAM. But one word more. In respect to the statement made by the gentleman from Texas [Mr. MILLS] as to the expert authorities of the Treasury Department having determined upon mathematical and well-determined formulæ what the census of 1890 should be, I desire to make no reflection whatever upon the statement of the experts. Hon. S. S. Cox, of the city of New York, most familiar with this subject, estimated the population for 1890 at or between sixty-two and sixty-four millions. Hon. Francis A. Walker, than whom no one in the country stands higher in either experience or familiarity with all the technical and statistical conditions surrounding the census, estimated in a recent magazine article that in 1900 the population of the country would reach 75,000,000. Superintendent Porter's careful work carries out the percentages necessary to reach Walker's estimate, and Mr. Cox's conclusions are verified by the official announcement that we have of 63,000,000 population in 1890.

The SPEAKER *pro tempore*. The time of the gentleman from Pennsylvania has expired.

Mr. FLOWER. I yield three minutes to my colleague from New York [Mr. DUNPHY].

Mr. DUNPHY. All the acts relating to the taking of the——

The SPEAKER *pro tempore*. The gentleman from Minnesota will be entitled to further recognition if he desires.

Mr. SPINOLA. I desire to make a parliamentary inquiry, Mr. Speaker.

Mr. DUNPHY. I hope this is not to be taken from my three minutes.

The SPEAKER *pro tempore*. The gentleman from New York is recognized for three minutes.

Mr. DUNPHY. All the acts relating to the census, from the Third Census up to and including the Tenth Census, provided that the enumeration taken by the local supervisor should be kept in some public place in all large cities, there to be open for inspection for a number of days. Through some mistake this important provision was omitted from the act for taking the Eleventh Census, and the authorities of the city of New York had no knowledge of what the local enumerator had done, had no knowledge of what the entire census would show, until the actual announcement by the Census Bureau.

From the day that the result of the census lately taken was announced the people of the city of New York have believed that their number, as stated by the Census Bureau, was grossly inaccurate. Believing in the inaccuracy of the count our city authorities caused all the well-known tests to be made, and each test verified their belief. They realized the great importance of an accurate enumeration, and, having the Census Bureau count and the results of all the tests before them, our authorities, in order to demonstrate the incorrectness of that count, directed a re-enumeration to be made and placed the work in the charge of a department of our city, nonpartisan in its complexion and world-famed for its perfect organization and successful management.

That re-enumeration was made, the results shown by all our tests were verified, and the Census Bureau count demonstrated to be incorrect to the extent of almost 200,000 of our inhabitants. Thereupon a demand for a recount was made to those authorized to grant the same, and in the face of all the facts presented, our demand, strange to say, was refused. I say strange to say, for these reasons: The Eleventh Census was ordered because a correct enumeration of our people, a true report of our condition, and an honest basis for legislation like that now before the House were wanted. Any other enumeration but a correct one, any other report of our condition but a true one, are deceptive, worthless, and harmful.

The census authorities could not have failed to hear the loud and steady protests of hundreds of thousands of our people, backed up by the protests of the most powerful newspapers in the land. They did hear these protests, but would not heed them. Just to prove its correctness, just to establish faith in a work now looked on with suspicion, one would have imagined that the Census Bureau would have welcomed this demand. On the contrary and in the face of the strongest case ever presented with any such demand, the request was peremptorily denied.

To-day we have before this House the first-born of this wrong; to-day we have before this House an apportionment bill based on a census that has been proven to be incorrect, an apportionment measure that will deprive New York City alone of its right to 2 more Representatives in Congress. With the ratio proposed by this bill New York City, if correctly counted, would have been entitled to 10 Representatives in Congress, and New York State, assuming that all New York except the city was correctly counted, would be entitled to 36 instead of 34 Representatives in Congress. Who will represent in Congress the 200,000 uncounted in New York City?

There are a great many fair-minded men, to be counted perhaps by the hundreds of thousands, who believe that our enumeration was intended to be an undercount, having for its object just such legislative measures as this bill proposes—the cutting down of Congressional representation in the great Democratic stronghold of New York City. I know the committee in charge of this bill had nothing to do with the original count, but I do submit that before reporting on such an important measure as this, before proposing this bill, which in effect disfranchises 200,000 of our population, they with all the facts that had been presented to them, should have made an effort to discover the correctness or incorrectness of that upon which their measure is built.

I suppose this bill will pass. Anything that my colleagues or I might say will not prevent its passage. We protest here, however, so

that the country may hear us; we protest against what we consider a Government outrage, we protest against the Government's refusal to give us what in all fairness and justice we are entitled to. I shall not vote for this bill.

The SPEAKER *pro tempore*. The time of the gentleman has expired. The gentleman from New York [Mr. FLOWER] yields to his colleague [Mr. MCCARTHY].

Mr. HOLMAN. Mr. Speaker——

The SPEAKER *pro tempore*. The Chair will recognize the gentleman from Indiana.

Mr. HOLMAN. I yield ten minutes to the gentleman from New York [Mr. CUMMINGS].

Mr. BLOUNT. Has my time expired?

The SPEAKER *pro tempore*. The gentleman has three minutes remaining. The gentleman from New York [Mr. FLOWER] does not seem to be present.

Mr. HOLMAN. I yield to the gentleman from New York [Mr. CUMMINGS].

Mr. CUMMINGS. Mr. Speaker, I am glad, sir, that the gentleman from Arkansas [Mr. MCRAE] has offered an amendment increasing the representation of the city of New York in this apportionment bill. The distinguished chairman of the Committee on the Eleventh Census acknowledges that the apportionment for New York in this bill was based upon the figures furnished by the Census Bureau. He also acknowledges that New York City challenged these figures before his committee had reported this apportionment bill and that the bill has been reported before his committee has sifted the evidence. But he did not tell you the grounds upon which the challenge was made. I will try to detail the evidence.

After the returns of the population of the city of New York were informally issued from the Census Office the board of health of that city made a discovery. Assuming that the figures of the census officers were correct and that the monthly statistics of the board of health were also correct, an alarming state of affairs was disclosed. The city seemed to be suffering from a pestilence. The average yearly death-rate had risen in some wards to over 60 per cent. of the population. There was no outward evidence that the city was suffering from a pestilence. The streets were not jammed with funeral processions, nor were the ferry boats overloaded with mourners. It was evident to the health authorities that the figures given by the census enumerators were incorrect. Their own figures showed that the city was more than usually healthy.

The president of the board of health reported the facts to the mayor. The mayor invoked the police authorities to secure a correct census. He desired to take no advantage of the Census Commissioner. He invited him to send one of his officers to New York City to supervise the police returns. This was done. The police census was taken under the supervision of this officer. It showed that there were over 198,000 inhabitants in New York City who had not been enumerated by the census officials. The police enumeration books were brought to this city; but the Superintendent of the Census evinced no special desire to peruse them.

Mr. FRANK. Will the gentleman allow me? I know that he does not wish to make any misstatement.

Mr. CUMMINGS. I am right. Let me alone. I would gladly yield to my friend if I had time. I qualify the remark. The Secretary of the Interior asked that the returns be sent to the Census Office, but refused to allow Mr. William J. Kenney, the gentleman in charge of them, to be present when they were examined. His own lieutenant was with the mayor of New York and examined the returns, in the presence of Mr. Kenney, when they were sent in by the police; yet the Secretary was not willing that Mr. Kenney should be present when the Superintendent of Census examined them. The pages were loosely bound. Everything had been done in haste. It was possible that the police returns might be taken into a dark room in the Census Office and doctored. The city officials were suspicious. They had instructed Mr. Kenney not to lose sight of the returns. Tom Platt and Sloat Fassett had made an effort to secure them before they were brought to Washington. It was done through the medium of a legislative investigation committee, supervised by Platt, of which Fassett himself was chairman. The object apparently was to bury these returns and not unearth them until the Superintendent of the Census had made his official report.

Mr. FRANK. The books were not brought here, and that statement is inaccurate.

Mr. CUMMINGS. The police books for five wards were brought here by Mr. Kenney, of New York, notwithstanding the efforts of Tom Platt's investigating committee to prevent it. They were here for days. I know what I say, and I am personally responsible for the statement.

Now, sir, when the books were returned to New York City the authorities there demanded of the Census Office their figures in regard to four wards of the city of New York. They made the demand under the law, which specified that they should pay for the work. They desired to compare the figures and names turned in by the enumerators in each ward with the names of those taken by the police authorities. They received the figures and names for only one ward, the Second ward. In no other ward were they furnished, although the money to pay for the work is now in the Census Office.

Mr. FRANK. They never were demanded and the gentleman is entirely mistaken.

Mr. CUMMINGS. The figures and names in the Second ward were demanded, and the Superintendent voluntarily offered to furnish the figures and names for the other four wards. His offer was accepted and $50 was put up to pay for the work. The figures from the Second ward alone were received. The gentleman himself is entirely mistaken. I state this upon the authority of the mayor of New York, his private secretary, Mr. Speer, and Mr. Kenney, of New York, who, if necessary, will make an affidavit to justify the statement. I am under the impression that he has already done so.

Mr. FRANK. If the gentleman will allow me——

Mr. CUMMINGS. My time is extremely limited. The gentleman must excuse me. I am trying to state the truth in the fewest words.

The SPEAKER *pro tempore*. The gentleman from New York is entitled to the floor.

Mr. CUMMINGS. But, sir, we got the names and the figures from the Second ward. It took nearly two days to get from the Census Office less than a thousand names of persons living in this ward. At this rate it would have taken over fifteen hundred days to secure a copy of the complete census returns from New York City, nearly five years. We compared them with the names and the figures taken by the police authorities. The police authorities discovered nearly 460 persons in this, the smallest ward in the city of New York, who had not been enumerated. But this was not all. To verify the police count officials were sent through the ward and affidavits secured from the heads of families that covered over 450 persons who had not been enumerated by the census officials. In these affidavits the affiants swear that they were in New York in June, when the enumerators took the census, and that no enumerator called upon them or took their names. They had apparently been overlooked, either willfully or unwittingly, by the enumerator. These affidavits were before the Census Committee when they reported this bill. Worse than all this, two of the Federal enumerators in the Second ward say that many names scheduled in the police returns were taken by them and turned over to the Federal supervisor. These names do not appear upon the Federal list. Why not? This fact was disclosed by Commissioner Porter himself while arguing the case before the committee who report this bill. Mr. Kiernan, one of these two enumerators, says that he turned them over to Supervisor Murray. What became of them? They are not in the Census Office. More than this, Mr. Kiernan is quoted as saying that there are still fifteen schedules from this ward turned over to him by his predecessor which have been mislaid and never sent to Washington. What a comment upon the figures upon which this proposed apportionment is based!

There is no question as to the fact in the Second ward. There has been no opportunity to compare the other wards with the figures and names turned into the office of the Census Commissioner. The superintendent has not given us the returns. It is fair to assume that if the police returns from the Second ward are correct, as is shown by the affidavits, the police returns from the other wards of New York City are also correct. On evidence not as strong as this many a man has been hanged. The police returns give the names of nearly 198,000 persons in the city of New York who say that they were not scheduled by the census enumerators. We present the evidence of this and ask that the apportionment for New York shall be based upon its exact population.

Mr. FRANK. Will the gentleman yield a moment?

Mr. CUMMINGS. I have not time, my friend; I am stating facts and I assure you that they are as I state them; I live in New York and am personally conversant with them.

Now, Mr. Speaker, New York City is sensitive as to her apportionment. She has long suffered from an unjust legislative districting. That apportionment throws her into the hands of a Republican Legislature, despite a large Democratic majority in the State. In other words, her Legislature is chosen by a minority of her people. Seventeen thousand voters in Republican St. Lawrence County elect three members of the assembly and it takes 17,000 votes in the Democratic city of New York to elect one member.

The same disproportion is found in the State senate. No wonder that she is extremely sensitive when she finds a Republican House of Representatives pressing to a vote a Congressional apportionment bill based upon figures that she has challenged and has proved to be incorrect if not fraudulent. The unjust basis of apportionment in her Legislature gives her a misrepresentation in the United States Senate. Her Senators are now, and have been for years, Republicans, in the face of a large Democratic majority in the State. She is struggling for home rule in the face of this unjust legislative apportionment. She lost the World's Fair because of it.

The State constitution expressly requires that a State census of her inhabitants shall be taken every ten years, upon which to base a new apportionment for State senators and assemblymen; yet the Republican Legislature of New York has for years refused to obey that constitutional mandate. Now look at the anomaly. In New York State we

find a Republican Legislature repeatedly disregarding the plain letter of the State constitution so as to avoid an enumeration and an apportionment for the Legislature; while here we have a Republican House of Representatives trying to rush through the legislative hopper an apportionment bill based upon figures whose correctness is challenged before the committee that reported the bill! They openly acknowledge that they are not satisfied of the correctness of the figures upon which they base their action. How could it be otherwise in view of the character and magnitude of the testimony offered.

This committee in its haste has set nearly all precedents at defiance. In only one case since the formation of the Government has a Congress in existence when a census was taken passed an apportionment bill. Here the returns are hurried into the world from the Census Office half made up, so as to prevent an apportionment by a succeeding Congress, which would certainly have the correct figures before it. The party lately repudiated by the people endeavors to rob the people of a just apportionment. No wonder that the gentleman from Minnesota [Mr. LIND] cries aloud in indignation. No wonder that the gentleman from Arkansas [Mr. MCRAE] does the same. The returns upon which to base a just apportionment are not here. There are charges of fraud from many quarters, and this body should move slowly or not move at all.

Sir, I have said that New York is sensitive as to this proposed apportionment. She wants one based upon a fair count of her inhabitants, and if there is a proper sense of justice in this House she will get it. Look at the injustice done to that great city, and to the State as well, by this bill. The fraction of population in New York State under this apportionment is 85,000. Add to this the 198,000 people in the city unenumerated by the census officials and you have 283,000 inhabitants of New York unrepresented under this apportionment bill.

All that is asked under the amendment offered by the gentleman from Arkansas is that these 283,000 inhabitants shall be represented by an extra Congressman. This would give New York an extra electoral vote. Now can you refuse this and in the same bill give to 190,851 inhabitants, scattered in three Republican States, nine Presidential electors, six United States Senators, and three Representatives? I allude to the States of Nevada, Wyoming, and Idaho. The figures show—Commissioner Porter's figures—that Nevada has only 45,761 people, Wyoming 60,785, and Idaho 84,385; making a total of 190,851.

But, sir, this is not all. Under the very figures of Commissioner Porter an injustice has been done to the State of New York. I received no copy of this bill until this debate began. Since then I have been analyzing the figures upon which it is based. The task is uncompleted, but it has been completed far enough to show the injustice done my State even under the Porter figures. Under this bill it takes 176,407 inhabitants in the State of New York to secure a Congressman. It takes in Pennsylvania 175,267; 1,140 fewer than in New York. It takes in Maine 165,271; 11,136 fewer than in New York. It takes in Vermont 166,211; 10,196 fewer than in New York. It takes in Massachusetts 172,226; 4,181 less than in New York.

[Here the hammer fell.]

Mr. CUMMINGS. I ask two minutes more.

Mr. HOLMAN. I yield the gentleman two minutes.

Mr. CUMMINGS. It takes in Ohio 174,872; 1,535 fewer than in New York. It takes in Rhode Island 172,753; 3,654 fewer than in New York. It takes in Wisconsin 168,688; 7,719 fewer than in New York. It takes in Iowa 173,808; 2,599 fewer than in New York. It takes in South Dakota 164,404; 12,003 fewer than in New York. I have not had time to carry the computation further.

Now, Mr. Speaker, why is this thus? Is it because these States are usually Republican and because New York is Democratic?

But, sir, the injustice to New York State, based on Superintendent Porter's figures, great as it is, bears no comparison to the injustice suffered by little Democratic Connecticut. She has a population of 745,891, according to the census returns. This bill gives her one Congressman for each 186,472 inhabitants. In other words, it takes 21,201 more people in Connecticut to secure a Representative in the House than it takes in Maine under this apportionment, 20,261 more than in Vermont, and 22,068 more than in Republican South Dakota.

One would have thought that the condition of Connecticut under minority domination would have inspired some pity in this committee. It seems, however, to have had an opposite effect. Connecticut has a system which ignores the greater number of voters in electing State officers. They must secure an absolute majority of all the votes cast or the selection goes to the rotten borough Legislature. There 28 members represent 78,384 voters, while 75,594 voters have 221 members on the floor. In the lower house the town of Union, with 118 votes, has the same number of representatives as New Haven, with 17,827 votes. The 2,585 votes of Tolland County have the same representation in the State senate as the 17,827 votes of New Haven.

Eight Senate districts have 77,374 votes and sixteen districts have 75,728 votes. It is by such manipulation that this stanch little State has been misrepresented in the United States Senate for so many years. It is upon such an apportionment that the Republican Legislature in Connecticut, like that in New Hampshire, will soon attempt to set aside a Democratic governor elected by the people and put in his place the minority candidate, who is a Republican.

But, sir, time presses. This House is no longer a deliberative body. Its rules give me no opportunity to further expose this iniquity. I appeal to all fair-minded men upon this floor for justice to New York. Above all, I appeal to her Representatives without regard to party to stand by their State and endeavor to secure her a fair and a just representation. [Loud applause.]

Mr. HOLMAN. I yield now to the gentleman from New Jersey [Mr. MCADOO].

Mr. MCADOO. Mr. Speaker, the whole question brought up by this apportionment bill is as to the accuracy of this census and the reliability of the actual count of the people of the United States. Now, it is a national misfortune that this census to-day stands discredited. A very large proportion of the people of this country do not believe that the census has been well or accurately taken, and every deduction that you make from it, whether in the way of apportioning Representatives in Congress or in the science of statistics to be based upon it, is discredited in advance, and will among great numbers of people in this and other lands carry no weight—the "baseless fabric of a vision."

I say that is a national misfortune. That misfortune, in my opinion, has arisen from some of the features in the original law and its supplements. The census was handicapped before they undertook to take it at all by the laws which created the Census Bureau and the questions formulated by those charged with its execution. Those questions are absolutely unamerican. They are more suited to some place in Russian Poland or under an oriental despotism than to an American free State. I know that gentlemen on the other side will immediately say that the original law was enacted by a Democratic Congress, but that does not alter the case. The later supplements, invading the homes of honest farmers with insulting and absurd inquiries, were enacted by this Congress. The peaceful character of our people is shown by the survival of the enumerators.

I say to-day it was an unamerican, absurd, unfair, and uncalled-for law that allowed any bureau of this Government to send out a vast army of satraps to go into the homes of our people and ask them for information concerning strictly private and personal affairs and which did not belong to the Government to know, but which did belong exclusively to the citizen. It was, in other words, a species of vivisection for the purpose of building up certain so-called statistics.

Now, vivisection is very amusing, instructive, and entertaining to the doctors, but much less so to the dog or other animal that is vivisected, and when one of these satraps of the Census Bureau entered the home of a free American citizen and subjected him to a cross-examination as to his family and their diseases and other private matters, he not only committed an outrage upon the rights of the citizen, but he made it impossible to get an accurate census, because when the people of the United States read the questions which had been formulated by the bureau and saw to what an ordeal they were to be subjected, they simply avoided the census-takers, and the enumerators do not seem to have been very anxious to find them.

Some of the circular inquisitions left at the houses of citizens (and in many cases never after called for), and inquiring as to the condition of your digestive organs and the number of eggs laid by your hens, the reasons why you borrowed $50 on a mortgage, the condition of your mind and the health of your bank account, the disposition of your children, the condition of the crops on your farm, and demanding categorical answers as to whether you were an idiot, illiterate, or a convict, did not tend, in a country with old, well-settled prejudices against paternal government, to make the census popular. The whole thing is utterly out of place here, and I shall always regret I did not earnestly denounce it, if present, when the law passed. You can take to-day a crowd of one hundred men in any part of the United States, and ask the question how many of them met the census-taker, and you will find that a large percentage never saw him at all, and they did not want to see him, and in some communities he was quite as well pleased not to meet them.

Mr. DUNNELL. Will the gentleman yield a moment?

Mr. MCADOO. Give me five minutes more and I will yield for any question.

Now, Mr. Speaker, as a result of this state of things, in the great cities of New York, Jersey City, and Brooklyn, one of which I have the honor to represent on this floor, the people were thoroughly and rightfully prejudiced against the inquiry conducted by this bureau. They resented it as an insult to them that this unamerican, this Russian paternal manner of taking the census should have been adopted. The census-taker going along in a sort of vagrant fashion picked up here and there a few of our people; but I say to-day in the face of the world that the statistics and the deductions based on this census are not worth the cost of their printing.

What will you have as the result of this inaccurate census? Ponderous treatises upon theology and biology, zoölogy and geology, and probably tautology and all sorts of ologies; learned productions about tumble-bugs and elephants, about the tariff and the workingman, and the cost of living and farm mortgages, about which you might as well em-

ploy five good Yankees from your State, Mr. Speaker [Mr. DINGLEY in the chair], to make guesses, as to rely on these ponderous tomes that we are printing at the public expense.

It is an outrage on the people of the United States that this vast bureau should have been created with this tremendous machinery and started upon a basis on which it never could succeed, and that its work should be carried on to-day at an expense to the taxpayers of the country of millions of dollars for documents which might as well be dumped into the Potomac River so far as concerns any accurate information to be derived from them. Nobody here or elsewhere will waste any time on conclusions based on premises perfectly ridiculous. A constitutional census giving an honest count of the people is what is needed. Vast tomes of juggled figures on every conceivable subject may possibly be humorous or even pathetic in their pretentious ignorance, but never instructive.

As to the census of my own city of Jersey City and the cities of New York and Brooklyn and their vicinity, I believe it to be inaccurate; I believe it does not tell the truth as to the number of people in those cities. Of this I am as sure as that I stand here.

The truth is this so-called science of arithmetical prestidigitation, called statistics, is such a frightful and grotesque liar that it is earning only the laughter and at times the tears of mankind. You can prove everything, anything, and nothing by it! All this because so often its premises are assumed falsehoods. Between the census taken by men who were advertised for as partisans, open circulars being sent out beseeching Republicans out of a job to go round and count the people of New York—between such a census and the census taken by the police force of that city, one of the most intelligent and efficient body of police in the whole world, there can be no comparison. I say the police census is accurate; I say that the estimates of the board of health of Hudson County, New Jersey, are accurate. I say the police census of Brooklyn and Newark is accurate; and I charge to-day that it is a wasteful expenditure of public money to print the documents of this Census Bureau, which can be of no value to the people of the United States.

[Here the hammer fell.]

Mr. FLOWER. I yield three minutes to my colleague [Mr. MCCARTHY].

Mr. MCCARTHY. Mr. Speaker, it has been asserted by some gentlemen on the other side of this House that the discussion on this question should apply simply to the bill under consideration, and that no other issue of any character whatever should be considered in determining the propriety of the presentation of this measure at this time. It seems to me that the basis of this bill must be a proper conduct of the census as taken by the Superintendent in charge and the correctness of the same. It seems to me that before we can decide on the propriety of presenting this bill we should know the exact number, as nearly as possible, of the inhabitants of this Republic. Do we know or have we obtained this information? Certainly not.

What is the fact? As facts are what gentlemen on the other side want, we present the facts. But because these facts are not in accord with their views they desire to cast them aside and present side issues in arriving at the settlement of this question.

The fact is clear that the census was incorrect, not alone in New York, but in Minnesota—the State represented by the distinguished gentleman who has this bill in charge—not alone in Minnesota, but in other portions of this country,

No charge is made, certainly not by me, that General Porter, the Superintendent of the Census, willfully or in any other manner aided or was the cause of the serious errors committed in regard to New York.

These errors were committed by the enumerators employed in New York, most of whom were unknown, and only recommended by some political friend, and whose only interest was to get employment and to get through with it as soon as possible and with as little trouble and inconvenience to themselves. This they did, and the result was the passing over and neglecting to enumerate the inhabitants in many sections of New York City, amounting to nearly 200,000. This is clearly and conclusively proven by the police enumeration taken under the direction of Mayor Grant, who has so faithfully and fearlessly represented the interests of New York City in this matter, without regard to politics.

There is politics in this question of course, but above politics and every other question is that the great city of New York, and thus the great State of New York, shall have a fair, honest, and correct count of its people; for by this count its people will be judged for the next ten years.

But gentlemen complain because this incorrectness of the census in New York was not brought to the attention of the Superintendent at a particular time; and they mention cases where corrections were made by him in other localities as to which the question was presented. Sir, if it be true (and it can not be contradicted) that the census-taking was imperfect in the great Republican State of Minnesota, it is just as likely to have been imperfect in regard to the great Democratic State of New York.

The law requires that information should be given within a reasonable time. Now, an unofficial declaration was made as to the population of New York City about two months ago. The mayor of New York and its citizens could not act until it was ascertained what was the result of the count under the Federal census. Then they discovered and their attention was called to the grievous errors complained of here and which have been presented to your committee. We have nothing to conceal. All we ask is fair play. We have no doubt of our having been monstrously undercounted.

Until this question of New York is settled no apportionment bill ought to pass, because the ratio proposed here is based on a false and mistaken result. Allowing New York City the additional 200,000 claimed will, using the divisor 173,901, make her entitled to 36 members instead of 34, as proposed by this bill.

I regret my not having more time in which to discuss this measure.

[Here the hammer fell.]

Mr. HOLMAN. I yield five minutes to the gentleman from Louisiana [Mr. BLANCHARD].

Mr. BLANCHARD. Mr. Speaker, I shall vote against this bill because I consider it a Republican measure pure and simple. I shall vote against it because I find that taking the gains of members to the various States there is a net gain of seven to the Republican States. It seems that there are to be seven more Republican votes not only in this House, but in the Electoral College; and I think that is reason enough for any Democrat to vote against this measure.

I shall vote against it for the further reason that the measure is sought to be hurried through. The gentleman from New York [Mr. FLOWER] has pointed out that never in the history of Congress prior to this time (except perhaps in a single instance) has an apportionment of Representatives been made in the year in which the census was taken. Why this hurry? The party that is now seeking to pass this apportionment bill is the party that was so recently discredited at the polls; and it occurs to me that the proper thing to do is to postpone this apportionment question until the real representatives of the people—those who have been elected to the Fifty-second Congress—shall come into the places assigned them by the people.

I shall vote against this bill, Mr. Speaker, for the further reason that there are other numbers of membership than 356 which would be better for this side of the House or for the Democratic party. The old or present number, 332, would be better for us in the Electoral College than the number 356. Three hundred and fifty-nine, the number proposed in the amendmont of the gentleman from Arkansas, would be better for us, both on the floor of this House and in the Electoral College, than the number which has been adopted. It would give to the two Democratic States of New York and Arkansas each an additional member, and 1 to Minnesota, a Republican State, making a net Democratic gain of 1 over what the number 356 would give.

It is surprising to me, Mr. Speaker, that the Democratic members of the Census Committee should have agreed to this number of 356.

I shall vote against the bill for still another reason, which perhaps is selfish to myself and to my State. I find that if 356 be adopted as the number of Representatives in this House there are 75,000 people in Louisiana who will not have a representation on this floor. I find that Louisiana would have her six members as now, with no increase from the present membership of 332, and that the increase of membership to 356, as proposed, would not give her an additional member. I find that, with 356 as the number of Representatives and 173,901 as the ratio, which this bill adopts, it will take 186,401 people to elect a Representative in Louisiana to 173,901 in other States. In other words, each one of the six districts in Louisiana will have 12,500 more people than will be required of districts in other States. These, Mr. Speaker, are the reasons which in my judgment are sufficient at least to justify my opposition to this bill.

Mr. HOLMAN. I now yield one minute additional to the gentleman from New Jersey [Mr. MCADOO].

Mr. MCADOO. In that one minute, Mr. Speaker, I desire to state that since I last occupied the floor I have received a telegram from a gentleman who has had for many years charge of the vital statistics of Hudson County, New Jersey, a most thoroughly competent, reliable, conscientious, and painstaking statistician and a gentleman of the highest character, who has occupied that position for many years past—Mr. C. J. Rooney—and he informs me that the census as taken there is absolutely inaccurate, as shown by the figures submitted.

I read the telegram:

JERSEY CITY, N. J., *December* 16, 1890.

Hon. WM. MCADOO:

We estimate Jersey City population 186,000; Hoboken, 44,400; Hudson County, 292,000. Census much below.

C. J. ROONEY,
Clerk Board Health and Vital Statistics.

And now, in conclusion, I wish to state that in my judgment the first duty of the next Congress will be, just as soon as the House is organized, to appoint an investigating committee to investigate and probe this whole census business from the very beginning to the end.

[Applause on the Democratic side.]

Mr. FRANK. Why don't you ask a recount on the basis of that telegram?

Mr. HOLMAN. I now yield five minutes to the gentleman from New York [Mr. SPINOLA].

Mr. SPINOLA. Mr. Speaker, the gentleman from Louisiana [Mr. BLANCHARD] has correctly stated the question actually pending before the House. This bill is an absolutely political measure.

Early after the enumerators appointed under the census law had ceased to discharge their duties, the people in the city of New York discovered that great errors, to call them by no other name, had taken place in that city; and when we came to apply the probe and thoroughly investigate them we were compelled to the belief that in our humble judgment the errors are not errors, but that they are willful misstatements made for a purpose by the men appointed to enumerate the people under the law.

I scarcely make an exception. Every enumerator was a Republican. The chief of every bureau was a Republican; and in one instance in the city of New York a notorious criminal was selected to make the enumeration, a felon, a man who had served a term in the State prison of the State of New York, was selected by these immaculate Republicans to make the enumeration of the people there.

Mr. FRANK. He was recommended by one of your judges.

Mr. SPINOLA. Yes, but not by a Democrat. He was recommended by a Republican.

A MEMBER. Was he a favorite of Tammany?

Mr. SPINOLA. Tammany! I thought you had enough of Tammany last fall, my friend [laughter]; and if you ever appear before the people again you will hear a good deal more about it.

Now, when we found that we had been wronged in this regard, we did not go to the corporal of the guard for relief, but we went directly to headquarters. We appealed to the Secretary of the Interior himself in order that justice might be done to us. What was the result of our appeal? We got no relief, none whatever. He wrote a vulgar, impudent letter, which was unworthy of the manhood of any man calling himself a gentleman, although his name may be Noble or whatever you please to call him. His letter to the people of the great city of New York would have answered well enough for a crossroads meeting in the section of country from which he came if he was on the stump.

The census as taken by the gentleman placed at the head of it is a crime against the Republic as it stands to-day. It is a wrong perpetrated willfully and knowingly. It is an injury done intentionally, and he knows it, and his "heelers" know it. We have no time to mince words on this question. An attempt has been made and is here being carried out to rob the people of their rights; and the gentleman from Pennsylvania asked why it was that the chambers of commerce and the boards of trade had not remonstrated. I will tell you. They have been so busy all summer trying to protect and save themselves from bankruptcy under the infamous laws of the Republican party passed during the last session that they have had no time for anything else. They had no time to devote to examining the census to see whether it was correct or not, but were endeavoring to save themselves from utter ruin under your tariff laws and other such measures.

The census, Mr. Speaker, was taken in the most slovenly manner, and that is the only excuse that can be made for its inaccuracies and great wrongs. Why, it is not only the city of New York, but Kings County is robbed of 50,000 as well as the 200,000 from New York. And the entire State, as the census we propose to take in the coming spring will show, has had stolen from it 500,000 at least. Your aim and object has been to increase your electoral vote. You knew that you could never get control of the House again, and you wanted to gerrymander the country in order to save yourselves.

Now, there is but one basis of representation for the American people, which is that the humblest citizen as well as the highest shall be represented on the floor of the House. Under this census taken by an Englishman, carried out under an English system, he has robbed the sovereign people of a State of at least 500,000 of their numbers in the one State of New York, and I shall not go beyond the borders of our State. That is enough.

[Here the hammer fell.]

Mr. HOLMAN. I yield now five minutes to the gentleman from New York [Mr. TURNER].

Mr. TURNER of New York. Mr. Speaker, although my Congressional district embraces within its limits that particular portion of the city of New York most undercounted, possibly—the Second ward—and although it is true that in my own ward its registration and vote have increased by nearly two thousand in the past eight years, yet we are accredited with an increase of but fifty-four in the last ten years. Still I do not think this is the time or the place to attack the Federal census in the city of New York.

We are considering now, and there is pending before the House, an amendment offered by the gentleman from Arkansas [Mr. MCRAE] that is at least a step forward in the right direction to correct the manifest injustice suffered by the people of New York in this enumeration, and possibly to a less extent by the people of Arkansas and Minnesota as well.

The gentleman from Pennsylvania [Mr. BINGHAM] who appeared here as a sort of special pleader for the Census Office, attacks the count made by the police authorities in New York and claims that in forty-eight hours' notice the Superintendent entirely overturned all the evidence adduced in support of this count. The evidence adduced by the Superintendent of the Census did not impugn the count of the police at all. It simply was an attempt to defend his own count, which was short by 400 in a total population of 1,300.

I think it well, Mr. Speaker, to call the attention of this House to the difference in the character of the enumerators of the Federal Census and the policemen, in their fitness for such work. The Federal enumerators were selected for political reasons. The police board is a great nonpartisan board. Democrats and Republicans alike serve as policemen, and Democrats and Republicans alike made this new count, as policemen. There was nothing partisan in it; and the further fact that the policemen of New York were entirely familiar with its streets and houses and largely with its citizens, goes far to show the accuracy of the police count.

But, Mr. Speaker, even under the count returned by the Superintendent of the Federal Census, if that should stand unchallenged, we still have 85,000 citizens of New York without representation according to the terms of this bill, a larger number than any other State has. Minnesota has a few hundred less; Arkansas, a few hundred less. The gentleman from Pennsylvania [Mr. BINGHAM], speaking for the Census Office, admitted that 2,500 citizens of New York had been missed in this enumeration and yet had sufficient public spirit to send their names to the supervisor of the Federal Census and were thereby enumerated, who otherwise would have been lost. If 2,500 citizens were thus lost in the Federal enumeration who had sufficient enterprise and public spirit and energy and intelligence to send their names to the Federal supervisor, it is but fair to assume that there must have been thousands more so overlooked who have never made known the failure to count them.

The city of New York contains thousands of foreign-born citizens, speaking imperfectly or not at all the English language, largely ignorant of our institutions. And it was in the section of the city peopled by foreigners that the greatest blunders and errors were made, and these people never have spoken, for the simple reason that they were in most cases ignorant and may be still largely ignorant of the whole proceeding.

Why, sir, if 1,800 more than the 2,500 who did report to the supervisor had reported, we would be entitled to another member from the State of New York, for, Mr. Speaker, the overplus of the State of New York is 85,000, and the necessary fraction is 86,000 and some hundreds. Eighteen hundred more citizens would entitle us to another Representative in Congress from the State of New York. I say again, if 2,500 men are admitted to have been lost, who only made the fact of their existence known by their own application to the supervisor, it is fair to presume that there must have been thousands of others whose names were never returned.

[Here the hammer fell.]

Mr. HOLMAN. I yield to the gentleman from New York [Mr. COVERT].

Mr. COVERT. Mr. Speaker, I offer the amendment which I send to the Clerk's desk.

The SPEAKER *pro tempore*. There are already two amendments pending. This may be read as a part of the gentleman's remarks.

Mr. COVERT. Yes, sir.

The Clerk read as follows:

After line 11, page 4, insert the following new section:

"SEC. 5. That the Secretary of the Interior is hereby authorized and required to cause to be made a recount of the population of the cities of New York and Brooklyn, in the State of New York, at the earliest time practicable, to be based upon the population as of the date of the previous enumeration; and that if the recount provided for herein shall show an increase to the amount of 150,000 as compared with such previous enumeration of the Eleventh Census in said cities, the State of New York shall be entitled to one Representative in Congress in addition to the number provided for in the first section of this act."

Mr. DUNNELL. Mr. Speaker, I understand that is read simply for information.

The SPEAKER *pro tempore*. The gentleman sends this up to be read as a part of his remarks. It is not offered.

Mr. COVERT. Mr. Speaker, I shall be exceedingly glad if, before a final vote is taken upon the pending measure, events may so shape themselves as to enable me to withdraw the amendment I have just sent to the Clerk's desk.

Meanwhile, however, I beg that the proposition I have submitted may be regarded as being very much more than a mere *pro forma* amendment. If no better measure of relief can be adopted, I submit that, in view of existing conditions, the proposition I have just submitted ought, as a matter of simple justice, to form part of this measure before its enactment into law.

To any gentleman on this floor who may feel disposed to give full faith and credit to the work of the Census Bureau in the recent enumeration and to the results as returned by the Census Superintendent simply because the work was done and the results certified by Federal authority, to such as he

Robes and furred gowns hide all.

Governmental agents are not necessarily infallible. They are as liable to error as the private citizen in the prosecution of individual affairs.

In the instance under discussion it has been demonstrated that the enumerators intrusted with the work of procuring census returns in certain portions of the State of New York have erred most grievously in the matters submitted to their care.

This House has been informed of the claim, most earnestly made by the representatives of New York City, that many thousands of her people have not been included in the Federal enumeration but recently completed. Thus far in this discussion nothing has been suggested in support of the claims made just as earnestly by the authorities of the city of Brooklyn that gross injustice has been done to her—the fourth city of the Union—in the enumeration of her citizenship. Acting under instructions issued by the municipal authorities, a careful house-to-house canvass was made by the police force of Brooklyn, and it was demonstrated as a result of this official enumeration that some forty-three thousand residents of that city had been omitted from the census lists as returned by the Federal authorities.

Add this number to the 197,000 residents of New York City whose names were not obtained by the Federal enumerators, and we have the grand total of 240,000 people in the two cities of New York and Brooklyn alone whose names have been omitted in the returns on file in the Census Bureau. The addition of these names to the census enumeration would entitle the State of New York to at least one additional Representative in Congress. All through this discussion the changes have been rung upon the statement that fraud is not charged against the authorities in the making of this erroneous enumeration. The gentleman from Ohio [Mr. JOSEPH D. TAYLOR] has enlarged upon this point. "You do not charge fraud," he repeats as a reason why the returns as filed by the Superintendent of the Census should not be taken as the foundation for this bill. Why, Mr. Speaker, in a matter of so grave a character as this, under conditions where so very much that is vital is dependent upon the results reached and upon the methods employed in reaching those results, negligence is as bad as fraud and gross error amounts to crime.

Mr. Superintendent Porter may have been as careful and as prudent as it was possible for any man in his position to be. He should be held to responsibility perhaps only for errors that may have occurred in his own immediate department here at the Capital. He could not and did not select the local supervisors, and it would be unfair to hold him to a personal responsibility for acts of omission on the part of local enumerators. The charge has been made in the most direct and earnest way by the official authorities of New York and Brooklyn that the work of the enumerators in these two cities was negligently and improperly executed. The proof furnished in support of this claim is, I submit, ample and more than ample to sustain the charge. The police of New York and Brooklyn are men who, by reason of their training and as a result of their daily duties, are accustomed to precise and exact methods. As between the results returned by them and the exhibits made by the Federal enumerators there can be no reason to suppose that the work of the former is incorrect.

It may be safely assumed that in many instances the local enumerators employed under Federal auspices had no special adaptability for their work. There is every reason to assume that the agents employed by the municipal authorities were by habit and training much better adapted for the work thus specially committed to them.

No, Mr. Speaker, it is not necessary for us of the minority to prove fraud or to charge fraud in this connection. To enable us to secure fair and exact justice in this important matter it should be sufficient for us simply to demonstrate that the names of at least 240,000 citizens of the Empire State of New York have been omitted from the returns as filed by the Federal authorities.

These claims of these two important centers, New York and Brooklyn, have been presented formally before the House committee having the formulation of the pending measure. No decision has been reached by the committee upon the charges thus made. With these grave allegations still pending and undetermined the committee have reported this bill to the House, have insisted upon limiting debate upon it, and have expressed their determination to put it upon its immediate passage.

I fail to see the necessity for this undue haste. Over seventy days yet remain before the final fall of the gavel shall mark the close of the Fifty-first Congress. There remains ample time for New York to perfect her proof before the committee, if that shall be needed, and for Brooklyn to establish her claim of gross wrong done to her in this matter. The charges in both instances are still pending and undetermined. Let the committee hear the proof in support of the allegations made by these two cities. When final judgment shall have been pronounced ample time will yet remain for the passage of a perfectly fair and equitable apportionment measure.

You can not, gentlemen of the majority, afford to be unjust in a measure of so large importance as this. You can not afford to create and encourage a feeling of distrust in the correctness of a census taken under all the forms of law and at so great a cost to the people. It has been said very often that the whole value of a census enumeration depends upon its absolute correctness. Let this census be made accurate and certain and let the representation in the Federal Congress to be based upon it be made just and even. As a matter of simple justice do not press this measure to its passage while grave distrust exists in the public mind as to the correctness of the foundation upon which the bill is constructed.

I have said do not attempt to pass this measure while grave distrust exists as to the correctness of the Federal enumeration. I should have said do not seek to do it in the face of positive proof as to the incorrect character of the census returns as filed. Let me repeat: negligence in so grave and important a matter as this is as hurtful as if deliberate fraud had been committed, and gross error takes rank as a crime. The proof establishes and more than demonstrates gross negligence and manifest error in the recent work of enumeration, and we of the minority make earnest insistence that because of the evidence of this neglect and because of the existence of these errors, abundantly established and almost self-evident, this measure should not be enacted into law. [Applause.]

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. HOLMAN. I yield three minutes to the gentleman from Pennsylvania [Mr. VAUX].

Mr. VAUX. Mr. Speaker, I do not propose to discuss this question of arithmetic, nor of grievances, nor of complaint, nor of injustice. I go one step beyond that. I claim that this census was gotten up by the Republican party just as it got up the force bill, to give them a power in the House of Representatives that they were not enabled to get by an expression of the will of the people. They got up this census so as to obtain an enumeration that would give them a larger representation than they are entitled to. They sent out partisan enumerators, and have forced the man at the head of this bureau, Potter, or Porter, or whatever his name is, to send his report in at the very earliest moment it could be given so as to quicken the passage of this bill. When it was given out the people of the country rose up in indignation and protested against it. Then here comes this bill that fixes the ratio of representation. The apportionment bill is to be passed before public condemnation can be more fully heard. It is a party scheme.

Now, I desire to say to you, Mr. Speaker, and to this House that the apportionment made under this bill will stink in the nostrils of the honest people of this country, and the men who come here elected under this apportionment will find that they have been sent here under a reapportionment which will fail to receive the respect of the people of the United States. [Applause.] Then I am against this bill, and I shall vote against it, because before this report had been filed it went out all over the country that the report was to be sent in to this Fifty-first Congress, which should make this reapportionment.

How many men in this Fifty-first Congress will stand up in the Fifty-second Congress to defend such a measure as this? I will not be here. The responsibility will then rest on our side of the House, and I will say to the Democratic members that the responsibilities will be with them, and they must see to it now that they do not yield one inch on a question of probity and integrity as to this enumeration.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. HOLMAN. I yield two minutes to the gentleman from New York [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, I did not intend to say anything at all about this census matter; but one of my honorable colleagues from an adjoining district has said that Brooklyn has not been mentioned on the floor. I will simply state the reason why Brooklyn has not been mentioned up to this time. Brooklyn has taken its population officially, and we are comparing our figures with those taken by the Census Bureau.

Now, I have no doubt that it will be shown that the forty-three thousand we claim were not enumerated have not been enumerated, but we make no claim thus far. We will not do anything further in the matter until we can bring up the official figures and have them compared with our figures as to the census of our city. I think that this ought to be understood as a matter of justice, and at the proper time we will be prepared to present our figures to the Census Committee.

Mr. HOLMAN. I now yield two minutes to the gentleman from Minnesota [Mr. LIND].

Mr. LIND. Mr. Speaker, in the time yielded to me I shall not assume to criticise the action of the committee, but I take it that it ought to be the design and it ought to be the effort of the Committee on the Eleventh Census not only to present a bill framed to satisfy an arithmetical scheme or rule, but one that would be satisfactory and just to the membership of this House and to the country. It is conceded on all sides of the House that there is a difference in regard to the census of New York. It is conceded, I believe, that at least three or four thousand names were omitted. If that much of a concession is made on both sides, it is fair to assume that the omission was much larger. It was probably as large proportionately in other States. Fortunately it is not known, as it appears to be in the case of New York.

Now, to appease the feeling of New York, considering the large fraction they have which will go without representation unless the amendment of the gentleman from Arkansas is adopted, I think it would only be fair and just to give New York an additional member. Let me also call attention to the two States of Arkansas and Minnesota, both showing the largest growth and increase in population, I believe, of any States

in the Union except the State of Nebraska. These two States are left with fractions that are almost major fractions. Each is left with 85,000 population which has absolutely no representation; and it is only a question of whether we shall make an exception to the arithmetical rule of the committee or perpetuate an injustice of this character.

The bill as it stands says to the people of the United States that in the State of Minnesota it shall take 186,000 of population to secure a member of Congress, while in the State of Virginia and in the State of Indiana 165,000 will suffice. That may fit your theory, but it is not justice. If you adopt the amendment of the gentleman from Arkansas it will give justice and satisfaction to all sections of the country.

Mr. HOLMAN. I yield two minutes to the gentleman from California [Mr. BIGGS].

Mr. BIGGS. Mr. Speaker, I regret very much that I find it my duty to say one word in opposition to this bill, but I am satisfied that we have not had a fair enumeration of the population of the United States. I went to the Superintendent of the Census, Mr. Porter, and asked him the question "Will you allow us one single Democratic supervisor on the Pacific coast?" and he replied "Mr. BIGGS, you ought to have one, I know, but you can't have it." [Laughter.] I admire Mr. Porter. No man could have done better than he has done under the circumstances, but I want to state further that in all my inquiries on the Pacific Slope I never found a single supervisor that did not belong to the Republican party.

Now, I undertake to say that in the great State of California and in the great city of San Francisco, the metropolis of the Pacific coast, there has not been a fair enumeration of the population. I do not blame the Superintendent, and I say to-day, before this august body, that had he had the opportunity, if he would not have given us a supervisor, he would at least have given us one enumerator that was an honest man, and he would have been a Democrat. [Laughter and applause.]

[Here the hammer fell.]

Mr. BIGGS. Is my time out already? I have not got commenced yet. [Laughter.]

Mr. HOLMAN. I yield two minutes to the gentleman from Arkansas [Mr. PEEL].

Mr. PEEL. Mr. Speaker, all I desire to say to the House on this subject is in relation to the enumeration of the district which I have the honor to represent. The supervisor for the Fifth Congressional district in my State lives within 12 miles of the town in which I have resided for over twenty years and where Senator BERRY of my State also lives, and neither of us ever heard of the man in our lives until he was appointed supervisor for that entire district.

As to the manner in which the enumeration was made, I discovered during the late campaign that in one county which casts only about a thousand votes altogether three entire townships were never enumerated at all. There was no effort made to enumerate them, and I am satisfied from what I have discovered—and I have not given the subject anything like close attention—that in the State of Arkansas, a State which stands I believe in the front rank of progress in the last ten years, at least a hundred thousand people were omitted from the enumeration. Many gentlemen applied to this supervisor to be employed to enumerate counties and parts of counties, men who were thoroughly competent, some Democrats and some Republicans—I took pleasure in recommending some of them—but in not a single instance that I ever heard of was a Democrat appointed, and I have never heard of any case in the State where a Democrat had even the humble privilege of enumerating a township.

Mr. HOLMAN. I yield two minutes to the gentleman from New York [Mr. TRACEY].

Mr. TRACEY. Mr. Speaker, in the few moments allotted to me I wish simply to make an appeal to my colleagues from the State of New York who live outside of the cities of New York and Brooklyn. It appears to me that, an opportunity having been given to us representing the State of New York by the amendment offered by the gentleman from Arkansas to increase her membership from thirty-four to thirty-five, no one representing any portion of our great State should be found casting his vote in opposition to that amendment. I can appreciate the fact that in these political discussions irritation will be caused sometimes, but I call upon my colleagues from New York to cast aside any feelings of that kind that may have been engendered and to think only of the people at home, who certainly will not rest satisfied if their Representatives betray the trust reposed in them by voting against an amendment which would be beneficial to our State.

Mr. HOLMAN resumed the floor.

Mr. FLOWER. Before the gentleman from Indiana proceeds——

Mr. HOLMAN. I yield for a moment to the gentleman.

Mr. FLOWER. I desire to offer, as an addition to the amendment I have already submitted, an amendment making the aggregate number of Representatives on this floor 357, instead of 356, so as to conform to the amendment I have already adopted.

Mr. HOLMAN. Mr. Speaker, it was my purpose, if the opportunity had occurred, to express some views in regard to the policy of increasing the number of members of this House. But so many gentlemen have desired to address the House on this important measure whose appeal for a portion of my time I could not refuse, that the hour allotted to me is nearly exhausted. I shall therefore have time only to state in brief terms the reasons why the number of members should not be increased.

The present number is 332. The number fixed by the last apportionment was 325 and 7 members added since by the admission of new States, and this bill increases the number from 332 to 356. The evidence around us on all hands is that even the present number of members is too large for safe, prudent, and intelligent legislation. Certainly gentlemen will admit that to secure intelligent legislation each member must have an opportunity to understand fully what is transpiring. That can not be done even now. Indeed, Mr. Speaker, it is obvious that even now, with 332 members in this House, it is impossible for all gentlemen to keep the run of current business. Many are too remote from the Clerk's desk to even hear in the midst of the confusion incident to a large assembly the reading of lists on which they are called.

I have not indulged the hope that there would be any reduction in the number of Representatives from the present number. It would require a very strong sentiment of reform in Congress to effect that, and a large amount of self-denial on the part of the statesmen of the several States of the Union. Indeed, as has been already stated by the gentleman from Minnesota [Mr. DUNNELL], never since the organization of our Government, when the number of members of this House was 65—never since that time, except on one occasion, has the House of Representatives been willing to reduce the numbers, and in every other apportionment the number has been increased. That exception was in 1843. That was a very interesting period of our history. The apportionment of 1843 was an incident to the political contest of 1840.

The spirit of reform had taken at that period a stronger hold on the American people than has occurred at any other period in our history. The political ground swell of 1840 had in the main grown out of the surplus in our Treasury in previous years, the result of excessive tariff taxation and the excessive inflation of the currency with worthless paper money, and the recoil incident to them which prostrated every industry and brought our people face to face with the demand for searching reforms in the Government. That canvass of 1840 produced a wonderful effect upon the public mind.

It was a political cyclone in which the old party organizations were badly broken to pieces. The party triumph in that campaign turned to ashes, but its purifying effect was felt for years afterward in the economic methods as well as in the general policy of our country. So that, looking back to the history of that period, it is not remarkable that the statesmen of that era were able to look at the question of the number of members of this House with self-denying impartiality, with no object in view except the public good. The good of our country is undoubtedly the desire of all of us now, but local considerations and patriotic pride in our several States control in a very large degree our political action. We shrink from an apportionment that would reduce the power of our respective States in this Hall and in the Electoral College, yet some time or other this will be inevitable.

I am in favor of an ample number of members to represent in Congress every possible interest of the people of the several States of the Union. I wish to have every State fully represented, so that no interest shall be left without a voice on this floor. But in my humble judgment that end is already reached and more; the 332 members now authorized to be elected to Congress do represent every conceivable interest of the American people. Even with the present number it is said that the House is no longer a deliberative body. If it is not we have no wise or intelligent legislation.

What, sir, are the evils of an excessive number of Representatives, a House composed of members beyond a reasonable number? What are the evils attending a legislative body too large for intelligent deliberation?

In the first place, it diminishes the personal responsibility of members. In fact, it dwarfs the individual member, no matter how great and intelligent the constituency he represents. As a result of diminished responsibility, with increased numbers, the number of efficient members and the legislative power and intelligence of the House are absolutely diminished. I take up the record of yesterday's proceedings, the last CONGRESSIONAL RECORD issued, and I refer to the vote upon two important bills, the only measures voted upon yesterday by yeas and nays. In one case the affirmative vote was 91, the negative vote 105, those not voting 135, and this bill involved a probable expenditure of $15,000,000; so that even with a House of 332 members the absentees actually exceeded the number voting for or against the proposition.

In the other case, on a bill involving very considerable public interests, the affirmative vote was 73, the negative vote 80, while the absentees numbered 169, the absentees actually exceeding in number both the affirmative and negative votes. This is a fair sample of the condition of our legislation with a membership of 332. What will it be when you add 24 to that number? What will it be in the next decade? Such absenteeism would be impossible with the number fairly responsible. I have heard the example of the British House of Commons repeatedly quoted as an argument in favor of enlarged representation on

this floor. That example is constantly quoted, and we are told that our House of Representatives is framed on the British model. There are 670 members of the British House of Commons, and I deny that there is any analogy in fact between our House of Representatives and the British House of Commons.

But what is the result of so large a House? A quorum is 40; so that in a legislative body composed of 670 members—a larger number than can by any human possibility deliberate in legislation—40 members constitute the legislative assembly and can enact laws. Is this much of an argument for following the British example in legislation? That is a result—and perhaps one of the inevitable results—of excessively large legislative bodies. The power in all such bodies is finally vested in a few great committees and the Speaker of the House. Do not the present state of the rules in this House and the power of the Speaker and a few chairmen admonish gentlemen of the result and peril of excessive numbers? There is, however, another consideration which I want to mention very briefly and which to my mind is of still greater importance than any other that can be urged.

By the greatly increased number of members of Congress you not only diminish individual responsibility, create absenteeism, and render deliberation and prudent and intelligent legislation impossible, but the tendency of great Houses of Congress (Senate and House) is to dwarf the local Legislatures of the several States. Such I think is the inevitable tendency at least in its effect on the public mind, when in fact in the nature of things the State Legislatures, dealing in all that concerns that local and domestic affairs of our people, in all their widespread and countless forms, do, except as to a few great and important matters of national concern affect the welfare of our people more than the proceedings of Congress.

But, again, gentlemen are not justified in referring to the British House of Commons as an example to us. The British Parliament, unhappily, legislates for England, Ireland, Scotland, and Wales, and in national affairs for the entire British Empire, while the legislation of Congress is legislation that is limited by constitutional requirements.

We have forty-four State Legislatures which legislate on all that concerns home and domestic government. Congress exercises but a limited power under the Constitution, a power which is ample for all national purposes and affairs; but, limited and restricted by wise constitutional provisions, it regulates our intercourse with foreign nations and the relations and intercourse of the States with each other in commerce and all else, with a few other delegated powers, while the State Legislatures legislate without restriction as to all "State affairs" except as limited by their constitutions. The powers conferred therefore upon Congress are delegated powers, limited and restricted. Those of the States embrace the whole field of domestic and local government.

Now, as a rule the State Legislatures even in the most popular branch will be found comparatively small bodies, ranging from 100 to 150 members as a general rule, with but few exceptions. The State of Massachusetts, for instance, with 248 members in the lower house is I believe the largest legislative body in the United States except the House of Representatives in Congress. There may be some instance where the State house of representatives is large than in Massachusetts, but I do not remember of any. This policy of the States is not so much on account of prudent economy as to secure proper deliberation and wise legislation. But as you increase or enlarge this body you enlarge the number of measures that will be forced upon Congress for consideration and you enlarge the scope, so to speak, of your Federal system, at least in public contemplation.

You magnify by its great array of members its legislative power and supremacy and enlarge every department of the Government, as well the House of Representatives in Congress, and at the same time, and by force of the same power and influence, you diminish the dignity and importance of the Legislatures of the States, as impressed on the public mind. And I do not believe, gentlemen, that this is desirable. The tendency of the period is too much to arrogate the power in the Federal Government in all of its departments. It goes on rapidly. Countless forces beyond those that are present in legislation are working at all times to enlarge the scope of the political powers of the Federal system.

Is it desirable to largely augment the number of Representatives on the floor, to largely increase the subjects of legislation which come before Congress for consideration, and thereby, and to that extent, expand the ascendency of the Federal Government, while at the same time you correspondingly diminish the dignity and importance of the States, weaken the very foundation of our political system by impairing the one and magnifying the other?

I must say that I witness with great solicitude this tendency to augment, to enlarge, and magnify the Federal system, either in its judicial, legislative, or executive department. The system as created by our fathers was perfect. We are impairing its symmetry.

I think we are destroying gradually the lines of demarkation between Federal and State powers, and as we are increasing decade after decade the number of Representatives on this floor the process of centralism goes on with steadily accelerating force. The main argument in favor of an increase of the membership of the House at this time is precisely the same argument that has been operating in the mind of the House of Representatives since 1843. It is that unless you do increase the number of members some of the States will lose in their representation.

That is to be regretted; and while I should be sorry, sir, to see it occur in my own State or any other State in the Union, it is inevitable unless you intend to increase the number of Representatives of the House decade after decade, with the corresponding tendency to multiply subjects of legislation. At the same time this increase tends to destroy deliberate legislation. You have almost gone beyond that point already. But that argument will be always presented, and decade after decade on the same argument you will add from fifteen all the way up to twenty-five additional members of the House for the purpose of preventing any State from losing one or more of its Representatives. The following table shows how steadily we are increasing the membership of the House:

Census.	Ratio.	Whole number of Representatives.
Constitution, 1789	30,000	65
First Census, 1793	33,000	105
Second Census, 1803	33.000	141
Third Census, 1813	35,000	181
Fourth Census, 1823	40,000	213
Fifth Census, 1833	47,700	240
Sixth Census, 1843	70,680	223
Seventh Census, 1853	93,423	234
Eighth Census, 1863	127,381	243
Ninth Census, 1873	131,425	293
Tenth Census, 1883	151,911	325
Eleventh Census, 1893	173,901	356

I take it for granted that this bill will pass. I appreciate the honorable and really patriotic motive that actuates members in standing by their respective States.

But, gentlemen, the effect of this increase in the number of the members of the House will be to reduce the chances for just and prudent legislation, and will diminish, not increase, the number of members who will in fact participate in legislation.

[Here the hammer fell.]

Mr. DUNNELL. Mr. Speaker, I desire to occupy a further few minutes now, and will then yield to one or two gentlemen who wish to address the House on this question.

When I was on the floor earlier in the day I claimed that the pending bill was eminently fair, eminently just. I have been surprised at some of the attacks which have been made upon it. These attacks have been in no way fortified; but gentlemen on the floor forget many things in connection with the enumeration of the people.

It is not to be supposed, Mr. Speaker, that there will ever be in this country an exact enumeration of all the people. There has never been a census taken that was not as violently opposed by the public press and by various States as has been the census of 1890. I shall insist, however, as a member of the Committee on the Eleventh Census and as a member of this House, that there have been as much labor, zeal, and fidelity exhibited in the taking of the Eleventh Census as have been exhibited in the taking of any previous census.

The gentleman from Texas [Mr. MILLS] dwelt quite strongly in his remarks upon the statistics of the Treasury Department, and argued that the census was not correct because the result was not equal to the mathematical calculation of certain gentlemen in that Department. These gentlemen who are in the Treasury Department, and who undertake to estimate the revenues of the Government for a single six months, every six months, are further out of the way than were the general estimates in regard to the census as compared with the actual enumeration of the people.

One gentleman says that we ought to have—and I think it was the gentleman from Texas himself—that we ought to have 66,000,000 people. Who has the right to say we ought to have 66,000,000? Who has the right to say we ought to have enumerated 64,000,000? The Hon. S. S. Cox a year and a half ago said, after looking over the estimates that were made and had been made, that if we reached 63,000,000 we might congratulate ourselves as a people; and that in his opinion it would not be far distant from 62,500,000.

The gentleman from Pennsylvania [Mr. BINGHAM] was in the act of reading the declaration and statement of Mr. Cox, as his time expired. I am surprised at the gentleman from New Jersey [Mr. MCADOO], who made a statement in regard to the manner in which the census has been taken, and who claimed that it has been a partisan census and that it should not be accepted. For sixty years——

Mr. MCADOO. Will the gentleman allow me? I did not use the word "partisan" during my remarks. I never said anything about it being a partisan census. I said the census was taken on a wrong basis and that all the errors and mistakes that have ensued have been because of that.

Mr. DUNNELL. Now, I will reply to that. It is well known, Mr. Speaker, that the present census law was passed in the last Congress,

under the leadership of Mr. Cox and approved by President Cleveland. It is well known that the provisions of it are in advance of those of any other census law; in other words, that more was to be done under the Eleventh Census than in any previous census; and there is not a single inquiry, there is not a single question asked in all the schedules that have been used in taking this census which does not find justification in the law itself. Now, if I were a member of the other side of the House I would, as one gentleman has said, tread lightly over the ashes of Mr. Cox, for he and that side of the House are responsible for this act.

Mr. OUTHWAITE. Mr. Cox and this side of the House are not responsible for the manner in which it was executed, though.

Mr. DUNNELL. Now, gentlemen in this House know that I am inclined personally to be conservative. I have hardly ever in fourteen years made a political speech in this House. It is a very poor return to this Census Committee that this bill has been regarded and termed a partisan bill.

Mr. McADOO. Will the gentleman allow me? I never charged the census with partisanship, but I have based my charge against it, as I said, upon the assertion that the census was taken on a wrong basis. It is true that Mr. Cox introduced that bill into Congress, except the amendments made in the last Congress as to farm mortgages, if I remember right; but I have made no charge against Mr. Cox. Mr. Cox did not formulate the questions which were asked, but they were formulated by the bureau, I believe, after that distinguished gentleman had died.

Mr. DUNNELL. Mr. Speaker, an executive officer is called upon to formulate questions according to the law, and he can not put questions into any schedule that are not justified by the law itself. And it should be remembered, that in the last session of this Congress we imposed a great deal of additional labor upon the Census Bureau. I now refer to the indebtedness schedules that involve a vast amount of work. They were urged by the other side of the House as well as by this side. They were added to the work of the Census Bureau.

Mr. Speaker, I regretted the attack of the gentleman from New York upon the honorable Secretary of the Interior. If there is a man in the Cabinet of President Harrison who has the respect of fair and honorable men on both sides of the House, it is the Secretary of the Interior. He received the demand of Mayor Grant that there should be a recount, and it was admitted at the time that the provisions of the law which applied to a recount had been utterly ignored by the mayor and the city government of New York. Not one single condition was complied with. And the attorney for New York, at the hearing at our committee room, admitted that they were not here under the law, but outside of the law and over the law. The city of New York has not regarded a single provision of the law providing for a recount ——

Mr. BLOUNT. Will the gentleman allow me?

Mr. DUNNELL. Not one of the ways of getting at it. If New York had pursued the same course that New Orleans pursued, that Pittsburgh pursued, and that twenty other cities and States pursued, there would have been the same recount.

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

The SPEAKER *pro tempore*. Does the gentleman yield?

Mr. DUNNELL. I will yield for a question.

Mr. BLOUNT. I wish to ask the gentleman if the statement of the attorney, to which he referred, was not to this purport: He admitted that the Secretary of the Interior had the right to finally determine the question as to whether there should be a recount or not. He claimed at the same time that they were entitled to a recount, but that the Secretary, having heard what he thought exhausted the law upon that subject, was compelled to ask Congress, on reasons which he submitted, to allow a recount.

Mr. FLOWER. That is the fact, and the printed report will show it.

Mr. BLOUNT. That is certainly the impression that I had of the statement of the gentleman from New York on behalf of the city of New York.

Mr. DUNNELL. Mr. Speaker, it has never seemed to me reasonable that there should be granted to New York a special privilege. There is no other city in the Union that has undertaken to come here in disregard of the law. The very gentlemen who have spoken here to-day admit that they were not legitimately before the Department of the Interior. They disregarded Mr. Porter. They now come here and insult the just honor of Mr. Noble, attacking him as having announced a blackguard opinion. I regret that the gentleman, venerable in years, should let fall from his lips an attack upon an officer of this Government who can not reply.

Mr. SPINOLA. Then he should use gentlemanly language when he addresses high officials.

Mr. DUNNELL. Mr. Speaker, the census enumerations will be carried on as long as the Government lasts by the Administration that is in power. For sixty years the census enumerations of this country were made by the Democratic party. They were made by marshals and deputy marshals, and Congress was fast to pay additional remunerations. They were partisan in all respects; and it does not become members upon the other side to attack this census because, forsooth, the majority of the enumerators belong to the Republican party. Some of them when found unworthy have been dismissed; and I insist that the Superintendent of the Census, in all his deportment and conduct, has sought to do right to the people of the city of New York.

The gentleman from Ohio [Mr. OUTHWAITE] was unfortunate when he undertook to compare the population of Illinois and Ohio. Was there any occasion for such an expression? Ohio and Illinois are both Republican States. Was that any temptation to run down the population of Ohio or to increase the population of Illinois? By no means. The gentleman from Louisiana [Mr. BLANCHARD] says that he votes against this bill because his State will be left with a fraction approaching a major fraction. The gentleman from Louisiana, with his long experience, ought to know that any other outcome would be impossible. He is unable to demonstrate here why we may not properly adopt the system that has been adopted.

My colleague [Mr. LIND] desires that Minnesota shall be voted in against the report of this committee. I have as much pride as he has in the State of my adoption and which I have had the honor in part to represent. I wish to take care of her people as well as he; but here in my position as chairman of this committee I must insist that the report of this committee, unanimously agreed upon, unanimously brought into this House, shall be sustained by the House.

I was not aware that we had so many members from the cities of New York and Brooklyn until to-day. If there is one of them who has not spoken, I will yield five minutes of my time to him.

The attempt has been made to bring in the count of New York City. I insist that the Committee on the Eleventh Census has treated New York with wonderful fairness. We patiently gave three days' hearing to her. The committee agreed to let that matter rest and not allow it to interfere with this apportionment bill. It was well understood and agreed upon that this apportionment bill shall be pressed.

Mr. Speaker, one gentleman has said, "Why rush this bill?" There has been no rush, but it is an honest meeting of a present legislative duty. The census has been taken and officially announced. This House, under the Constitution, has been told that there is a basis for a new enumeration, for a new apportionment, and you must recollect, gentlemen on the other side, that Mr. Cox himself initiated in the Forty-sixth Congress the apportionment bill under the 1880 census or that based upon that. He made a report. The bill was all drawn up, the statistics were all collected, and he stood ready to pass it through the Forty-sixth Congress.

Mr. CUMMINGS. Did he pass it?

Mr. DUNNELL. No; and why? I will answer the gentleman. Because the census was not completed, and never at any time since the beginning of the Government has the census been taken so promptly and so well as it has at this time.

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

Mr. DUNNELL. Yes.

Mr. CUMMINGS. Has any Congress ever passed an apportionment bill based on a census that was made officially during the existence of that Congress?

Mr. DUNNELL. I do not know. I have simply said——

Mr. FITCH. It never has.

Mr. DUNNELL. I have simply spoken of the preparation of the apportionment bill in the Forty-sixth Congress, and the fact that the report was made on the census in 1880, and why Mr. Cox did not take it up, and he is on record as to that. The reason he gave why he did not take it up was because the Superintendent of the Census was not ready to make a final announcement; and that announcement when made was twelve months sooner than any other announcement was ever made up to the Tenth Census. It took three years to take one of the censuses; one was taken in two years, and one was taken in one year and six months. You must remember that we have made progress.

I will say to the gentleman from New York that we have the telephone; we have the telegraph and all these modern appliances of transmission. We are able to go over this country in a less time than formerly. England takes her census in a very few days, while we consume months. I hope that by and by we may take the census of the United States in seven days. We could do it now but for the parsimony that prevails in the American Congress, the absolute stinginess exhibited when, once in ten years, we grudgingly appropriate six and a half millions to take a census of 62,000,000 people.

Give to our enumerators a just compensation. Give them a week's work. Have 500,000 of them instead of 50,000. Take the census and get the returns and have corrections made at the time, on the spot, and not six months after the census has been taken.

Mr. CUMMINGS. Will the gentleman indulge me in one question? Is he entirely satisfied in his own mind that the figures upon which he has based the apportionment for New York are correct?

Mr. DUNNELL. They are the official figures, and I am clearly of the opinion that they are as nearly correct as the official figures in any census that has ever been taken. There will be omissions; there will be duplications. It is said that the duplications are equal to the omissions, and that we really get, after all, a just enumeration so far as it can be attained by human agencies.

Now, there is one question that I do not want to forget. Results

always fall below estimates. We have two ambitious cities in the State of Minnesota, and I guess each of them thought that it had two or three hundred thousand inhibitants; they estimated wildly. And even on the cards that were sent in by the census enumerators Minnesota was estimated by the Census Bureau itself as having 1,400,000 people, but when the work came to be completed it was found that we had but 1,300,000. So that the expectations of the people had to be disappointed.

I am surprised, Mr. Speaker, that the representatives of the great city of New York, with its immense population and included in the State of New York, which has already 34 members in this House, should, like spoiled children, come here and whine because possibly in one ward a few men were omitted, when it has been demonstrated that in other wards many men were counted twice, and should ask Congress to take a census in December as of June 1.

Mr. FLOWER. I was enumerated in this city although I am supposed to live in New York. My house is in New York and I should have been enumerated there, and there were 2,400 persons in a like situation who wrote to Commissioner Porter and that were not enumerated by the census-takers. Now, I claim that when a man belongs in the city and happens to be out of it in June he should be enumerated there. We have proved every figure that we have given you to be correct.

Mr. DUNNELL. I understand that Mr. Calvin S. Brice, the Senator-elect from Ohio, was enumerated in New York City, with his entire family. [Laughter.]

Mr. FLOWER. Then that proves that your enumeration is wrong.

Mr. HOPKINS. But that offsets yours. [Laughter.]

Mr. STRUBLE. If he belonged to Tammany Hall he ought not to have been counted at all. [Laughter.]

Mr. DUNNELL. Mr. Speaker, I have served some years in this House, and never with more pleasure than with the gentlemen composing the Committee on the Eleventh Census. I insist that those gentlemen approached this question of the apportionment in a spirit of fairness, and I believe that the bulk of the members of this House on the other side have figured on these tables and are to-day satisfied that we have given them a just and conservative measure and that we have even gone beyond what they would have expected us to go. I think they are satisfied that we have done the work in a spirit of fairness and that they are willing that this apportionment shall be made.

It is right, Mr. Speaker, that it should be made now. This is the first session of Congress after the completion of the census. Why are we called upon to pass this apportionment over to the next Congress? Another thing, Mr. Speaker—and I am surprised that the Democrats upon this floor do not realize it—there are about thirty Democratic Legislatures that will be in session next winter. To those Legislatures this apportionment bill goes, and the very fact that we prepare this bill and pass it in this Republican House, is evidence that we are not disposed to evade what may be the inevitable.

The Democrats swept the country in the last election, but is that any reason why we should turn over to the next House the apportionment bill? We were elected, were in power and in the majority when the census was taken and when its results were announced.

Mr. Speaker, it is not easy for me to make a partisan speech. I said in my opening remarks that we had sought to be fair. We have been. There are gentlemen on the committee who ought to have had some time given them. When I rose I did not propose to take so much time. It is now 5 o'clock. Mr. Speaker, I move the previous question on the bill and pending amendments.

Mr. BLOUNT. I move that the House adjourn.

The question being taken on the motion to adjourn, there were—ayes 102, noes 123.

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

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 115, nays 145, not voting 71; as follows:

YEAS—115.

Abbott,	Clements,	Grimes,	O'Ferrall,
Alderson,	Clunie,	Haynes,	O'Neall, Ind.
Allen, Miss.	Cobb,	Heard,	O'Neil, Mass.
Andrew,	Cooper, Ind.	Herbert,	Outhwaite,
Barnes,	Cothran,	Holman,	Owens, Ohio
Biggs,	Covert,	Hooker,	Parrett,
Blanchard,	Crain,	Kilgore,	Paynter,
Bland,	Crisp,	Lane,	Peel,
Blount,	Culberson, Tex.	Lanham,	Penington,
Boatner,	Cummings,	Lester, Ga.	Pindar,
Breckinridge, Ark.	Dickerson,	Lester, Va.	Price,
Breckinridge, Ky.	Dunphy,	Lewis,	Quinn,
Brookshire,	Edmunds,	Magner,	Richardson,
Brown, J. B.	Ellis,	Maish,	Robertson,
Brunner,	Enloe,	Mansur,	Sayers,
Buchanan, Va.	Fitch,	Martin, Ind.	Seney,
Buckalew,	Fithian,	Martin, Tex.	Shively,
Campbell,	Flower,	McCarthy,	Spinola,
Candler, Ga.	Forman,	McClellan,	Springer,
Carlton,	Forney,	McMillin,	Stewart, Tex.
Caruth,	Fowler,	McRae,	Stone, Ky.
Catchings,	Geary,	Montgomery,	Stone, Mo.
Chipman,	Geissenhainer,	Moore, Tex.	Tillman,
Clancy,	Gibson,	Mutchler,	Tracey,
Clarke, Ala.	Goodnight,	Oates,	Tucker,
Turner, Ga.	Wheeler, Ala.	Wiley,	Wilson, Mo.
Turner, N. Y.	Whitelaw,	Wilkinson,	Wilson, W. Va.
Vaux,	Whitthorne,	Willcox,	Yoder.
Washington,	Wike,	Williams, Ill.	

NAYS—145.

Adams,	Cutcheon,	Lansing,	Sawyer,
Allen, Mich.	Dalzell,	Laws,	Scranton,
Arnold,	Darlington,	Lind,	Scull,
Atkinson, Pa.	Dingley,	Lodge,	Sherman,
Atkinson, W. Va.	Dolliver,	Mason,	Simonds,
Baker,	Dorsey,	McComas,	Smith, Ill.
Banks,	Dunnell,	McDuffie,	Smith, W. Va.
Bartine,	Evans,	McKenna,	Smyser,
Bayne,	Ewart,	McKinley,	Spooner,
Beckwith,	Farquhar,	Miles,	Stivers,
Belden,	Finley,	Miller,	Stone, Pa.
Belknap,	Flick,	Moffitt,	Struble,
Bergen,	Frank,	Moore, N. H.	Sweet,
Bingham,	Funston,	Morey,	Sweney,
Boothman,	Gear,	Morrow,	Taylor, E. B.
Boutelle,	Gest,	Morse,	Taylor, Ill.
Bowden,	Greenhalge,	Mudd,	Taylor, J. D.
Brewer,	Grout,	Niedringhaus,	Thomas,
Brosius,	Hall,	Nute,	Thompson,
Brower,	Harmer,	O'Donnell,	Townsend, Colo.
Browne, Va.	Haugen,	O'Neill, Pa.	Townsend, Pa.
Buchanan, N. J.	Hays, E. R.	Osborne,	Turner, Kans.
Burrows,	Henderson, Ill.	Owen, Ind.	Vandever,
Burton,	Henderson, Iowa	Payne,	Van Schaick,
Butterworth,	Hermann,	Perkins,	Waddill,
Caldwell,	Hill,	Pickler,	Wade,
Candler, Mass.	Houk,	Post,	Walker,
Cannon,	Kelley,	Pugsley,	Wallace, Mass.
Carter,	Kennedy,	Quackenbush,	Wheeler, Mich.
Caswell,	Kerr, Iowa	Raines,	Wickham,
Cheadle,	Ketcham,	Randall,	Williams, Ohio
Clark, Wyo.	Kinsey,	Ray,	Wilson, Ky.
Cogswell,	Knapp,	Reed, Iowa	Wilson, Wash.
Coleman,	Lacey,	Rife,	Wright.
Comstock,	La Follette,	Rockwell,	
Connell,	Laidlaw,	Rowell,	
Culbertson, Pa.	Langston,	Russell,	

NOT VOTING—71.

Anderson, Kans.	Dibble,	McAdoo,	Rowland,
Anderson, Miss.	Dockery,	McClammy,	Rusk,
Bankhead,	Featherston,	McCord,	Sanford,
Barwig,	Flood,	McCormick,	Skinner,
Bliss,	Gifford,	McCreary,	Snider,
Brickner,	Grosvenor,	Milliken,	Stahlnecker,
Browne, T. M.	Hansbrough,	Mills,	Stephenson,
Bullock,	Hare,	Morgan,	Stewart, Ga.
Bunn,	Hatch,	Morrill,	Stewart, Vt.
Bynum,	Hayes, W. I.	Norton,	Stockbridge,
Cheatham,	Hemphill,	Payson,	Stockdale,
Clark, Wis.	Henderson, N. C.	Perry,	Stump,
Cooper, Ohio	Hitt,	Peters,	Tarsney,
Cowles,	Hopkins,	Phelan,	Taylor, Tenn.
Craig,	Kerr, Pa.	Pierce,	Wallace, N. Y.
Dargan,	Lawler,	Reilly,	Whiting,
Davidson,	Lee,	Reyburn,	Yardley.
De Lano,	Lehlbach,	Rogers,	

So the House refused to adjourn.

The following pairs were announced:

Until further notice:

Mr. HOPKINS with Mr. HATCH.

Mr. STOCKBRIDGE with Mr. RUSK.

Mr. HITT with Mr. SPRINGER.

Mr. FLOOD with Mr. NORTON.

Mr. REYBURN with Mr. COWLES.

Mr. MORRILL with Mr. WALTER I. HAYES.

Mr. GROSVENOR with Mr. STEWART, of Georgia.

For the rest of the day:

Mr. SNIDER with Mr. LEE.

Mr. STEWART, of Vermont, with Mr. MCADOO.

Mr. YARDLEY with Mr. DARGAN.

Mr. ROGERS with Mr. LAWLER, on this bill. Mr. LAWLER would vote "ay" and Mr. ROGERS "no."

The SPEAKER. On this question the yeas are 115——

Mr. BLOUNT. I ask for a recapitulation of the vote. [Cries of "Oh, no!"]

The SPEAKER. The Clerk will recapitulate the vote.

The Clerk proceeded to recapitulate.

Mr. BLOUNT (interrupting the Clerk). I withdraw the demand.

Mr. BOUTELLE. I renew it.

The recapitulation was resumed and concluded.

The result of the vote was announced as above stated.

The SPEAKER. The question is upon ordering the previous question. As many as are in favor——

Mr. BLOUNT. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. BLOUNT. I wish to ask the gentleman in charge of this bill whether he is willing to consent that the bill go over till to-morrow, when there shall be two hours' further debate, the time to be equally divided between the two sides of the House——

Several MEMBERS. Regular order!

Mr. BLOUNT. At the end of which time the previous question shall be considered as ordered.

Mr. BOUTELLE. Mr. Speaker, is this in order?

Mr. CANNON. I hope the gentleman from Minnesota will assent to this proposition.

Mr. DUNNELL. I will consent to the proposition of the gentleman from Georgia, the previous question to be considered as ordered——

Mr. BLOUNT. Of course that was my understanding.

Mr. DUNNELL. The bill to be taken up immediately after the reading of the Journal——

Mr. BLOUNT. You can call it up whenever you want to; I do not object to that.

Mr. DUNNELL. Let that be a part of the agreement; and the time to be equally divided.

Mr. BLOUNT. The gentleman from Minnesota understands that there are some amendments pending. He will remember that the gentleman from Arkansas offered an amendment——

Mr. DUNNELL. It is understood that the previous question is to be considered as ordered on the bill and amendments.

Mr. BLOUNT. I understand that; but I wanted it understood that there were certain amendments pending, so that we might have no controversy about that.

Mr. FRANK. We know that, of course.

The SPEAKER. What request does the gentleman submit?

Mr. DUNNELL. I ask unanimous consent that to-morrow, immediately after the reading of the Journal, two hours be allowed for debate on this bill, the time to be equally divided; after which the previous question shall be considered as ordered on the bill and the amendments.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection, and it was so ordered.

ENROLLED BILLS SIGNED.

Mr. KENNEDY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 93) for the erection of a public building at Camden, Ark.;

A bill (H. R. 2754) granting a pension to Adele Jones;

A bill (S. 3122) to amend section 4426 of the Revised Statutes of the United States, "Regulation of steam vessels;"

A bill (H. R. 4608) to provide for the erection of a public building in the city of Fargo, N. Dak.;

A bill (H. R. 5074) granting a pension to George H. Rider; and

A bill (H. R. 11842) for the relief of James B. Guthrie.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PLATT, one of its clerks, announced that the Senate had passed a bill (S. 4561) authorizing the Bowling Green and Northern Railroad Company to bridge Green and Barren Rivers; in which the concurrence of the House was requested.

LEAVES OF ABSENCE.

By unanimous consent, the following leaves of absence were granted:

To Mr. HATCH, indefinitely, on account of important business.

To Mr. LESTER, of Virginia, indefinitely, on account of important business.

And then, on motion of Mr. DUNNELL (at 5 o'clock and 35 minutes p. m.), the House adjourned.

EXECUTIVE AND OTHER COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following communications were taken from the Speaker's table and referred as follows:

CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK COMMISSION.

A communication from the Secretary of War, transmitting a letter from the Chickamauga and Chattanooga National Military Park Commission and a copy of the act of the Legislature of Georgia, submitting a provision for insertion in the sundry civil appropriation bill for the year ending June 30, 1892, in reference to the limits of the park—to the Committee on Appropriations.

WHITE OAK RIVER, NORTH CAROLINA.

Letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a report of the examination and survey of White Oak River, North Carolina—to the Committee on Rivers and Harbors.

DISMISSED CASE OF MARY J. FOWLER VS. THE UNITED STATES.

Letter from the assistant clerk of the Court of Claims, transmitting a copy of the opinion of the court dismissing for want of jurisdiction the case of Mary J. Fowler against The United States—to the Committee on War Claims.

ROBERT S. FLAGG AND THOMAS G. FLAGG, EXECUTORS OF THOMAS G. FLAGG, DECEASED, VS. THE UNITED STATES.

Letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the cause of Robert G. Flagg and Thomas G. Flagg, executors of Thomas G. Flagg, deceased, against The United States—to the Committee on War Claims.

DISMISSED CASE OF JOHN CARRUTH VS. THE UNITED STATES.

Letter from the assistant clerk of the Court of Claims, transmitting a copy of the opinion of the court dismissing for want of jurisdiction the case of John Carruth against The United States—to the Committee on War Claims.

UNITED STATES BUILDING, CINCINNATI, OHIO.

Letter from the Acting Secretary of the Treasury, requesting an appropriation of $25,000 for the United States customhouse and post-office building at Cincinnati, Ohio—to the Committee on Appropriations.

INCREASE OF FORCE, ASSISTANT TREASURER'S OFFICE.

A letter from the Acting Secretary of the Treasury, transmitting certain communications relating to, and recommending favorable action upon, increasing the force in the United States Assistant Treasurer's office—to the Committee on Appropriations.

ANNUAL REPORT OF THE POSTMASTER-GENERAL.

A communication from the Postmaster-General, transmitting the annual report of that Department—to the Committee on Expenditures in the Post-Office Department.

INSTRUCTION OF THE NATIVE INHABITANTS OF ALASKA.

A communication from the Acting Secretary of the Interior, transmitting a copy of a letter from the Commissioner of Education and also from the United States general agent of education in Alaska, in reference to the establishment of an agricultural and mechanical college for the instruction of the natives of Alaska—to the Committee on Education.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred as follows:

A bill (S. 33) for the repair of Fort Marion, at St. Augustine, Fla., and the inclosure of the grounds attached to said fort—to the Committee on Military Affairs.

A bill (S. 458) enlarging the rights of homesteaders and pre-emptors on the public lands—to the Committee on the Public Lands.

RESOLUTIONS.

Under clause 3 of Rule XXII, the following resolutions were introduced and referred as follows:

By Mr. PIERCE:

Resolved, That the Committee on Ways and Means be, and they are hereby, instructed to report to this House, for its consideration by Monday the 5th day of January, 1891, House of Representatives bill No. 7162, entitled "A bill to establish a system of subtreasuries, and for other purposes," and that Monday the 12th day of January, 1891, after sixty minutes of the morning hour have passed, be fixed for the consideration in Committee of the Whole House on the state of the Union of said bill, to be continued from day to day until disposed of;

to the Committee on Rules.

By Mr. STONE, of Pennsylvania:

Resolved, That on the 13th day of January, 1891, immediately after the expiration of the morning hour, the House will proceed to the consideration of House bill No. 750, a bill to authorize the payment of damages sustained by citizens of the State of Pennsylvania from Union and Confederate troops during the late war, as adjudicated and liquidated by the State of Pennsylvania under the provisions of an act of the General Assembly of the said State of Pennsylvania, approved the 22d day of May, A. D. 1871, and that the previous question on said bill and pending amendments be considered as ordered at 4 o'clock p. m. of the following day;

to the Committee on Rules.

By Mr. McCOMAS:

Resolved by the House of Representatives (the Senate concurring), That the Public Printer be, and he is hereby, authorized to print 1,500 extra copies of the annual report of the engineer department of the District of Columbia, 100 for the use of the Senate, 350 for the use of the House of Representatives, and 1,050 for the use of the engineer department of the District of Columbia;

to the Committee on Printing.

REPORTS OF COMMITTEES.

Under clause 2 of Rule XIII, reports of committees were delivered to the Clerk and disposed of as follows:

Mr. MASON, from the Committee on Commerce, reported with amendment the following bills; which were severally referred to the House Calendar:

A bill (S. 3939) authorizing the city of Albany, in the county of Linn, State of Oregon, to construct a bridge across the Willamette River, in said State. (Report No. 3299.)

A bill (H. R. 11781) to authorize the Corpus Christi and South America Railway Company to construct a bridge across the Rio Grande at or near Brownsville, Tex. (Report No. 3300.)

Mr. TURNER, of New York, from the Committee on Invalid Pensions, reported with amendment the bill of the House (H. R. 12202) to place on the pension roll the name of Mrs. Caroline E. Duryee, accompanied by a report (No. 3301)—to the Committee of the Whole House.

Mr. NUTE, from the Committee on Invalid Pensions, reported favorably the bill of the House (H. R. 12053) granting a pension to Annie M. Kimball, widow of Alvah M. Kimball, Company H, Sixth New

Hampshire Regiment Volunteers, accompanied by a report (No. 3302)—to the Committee of the Whole House.

Mr. WILSON, of Kentucky, from the Committee on Invalid Pensions, reported favorably the bill of the House (H. R. 12347) granting a pension to Laura J. Haydon, formerly Burke, accompanied by a report (No. 3303)—to the Committee of the Whole House.

Mr. BELKNAP, from the Committee on Invalid Pensions, reported favorably the bill of the House (H. R. 11896) granting a pension to Mary Buckland, accompanied by a report (No. 3304)—to the Committee of the Whole House.

Mr. PERKINS, from the Committee on Indian Affairs, reported with amendment the bill of the Senate (S. 4242) to change the boundaries of the Uncompahgre reservation, accompanied by a report (No. 3305)—to the House Calendar.

Mr. BROWNE, of Virginia, from the Committee on Commerce, reported favorably the bill of the House (H. R. 12231) to establish a life-saving station near Cutler Harbor, Maine, accompanied by a report (No. 3306)—to the Committee of the Whole House on the state of the Union.

Mr. BINGHAM, from the Committee on the Post Office and Post Roads, reported favorably the bill of the Senate (S. 3464) to provide for the return of second-class mail matter, accompanied by a report (No. 3307)—to the House Calendar.

Mr. EVANS, from the Committee on the Post Office and Post Roads, reported favorably the bill of the Senate (S. 4039) to amend sections 3834, 3836, and 3837 of the Revised Statutes, and for other purposes, accompanied by a report (No. 3308)—to the House Calendar.

Mr. MANSUR, from the Committee on Claims, reported favorably the bill of the House (H. R. 12382) for the relief of William J. Landrum, accompanied by a report (No. 3309)—to the Committee of the Whole House.

Mr. BUCHANAN, of New Jersey, from the Committee on Patents, reported adversely the bill of the House (H. R. 4743) for the relief of John R. Harrington, accompanied by a report (No. 3310)—to the Committee of the Whole House.

BILLS AND JOINT RESOLUTIONS.

Under clause 3 of Rule XXII, bills of the following titles were introduced, severally read twice, and referred as follows:

By Mr. WALKER: A bill (H. R. 12687) to secure to the people the advantages accruing from the issue of circulating promissory notes by banks, to increase the volume of such notes, and to supervise and control banks by officers of the United States—to the Committee on Banking and Currency.

By Mr. HERMANN: A bill (H. R. 12688) granting to the Umatilla Irrigation Company the right of way through the Umatilla Indian reservation, in the State of Oregon, and for other purposes—to the Committee on Indian Affairs.

By Mr. HEMPHILL: A bill (H. R. 12689) to amend an act entitled "An act to amend the general incorporation law of the District of Columbia," approved May 17, 1882—to the Committee on the District of Columbia.

By Mr. CARTER (by request): A bill (H. R. 12690) creating two additional land districts in the State of Montana—to the Committee on the Public Lands.

By Mr. McCOMAS: A bill (H. R. 12691) to provide for elementary and industrial education in Alaska—to the Committee on Education.

Also, a bill (H. R. 12692) to amend the charter of the Rock Creek Railway Company of the District of Columbia—to the Committee on the District of Columbia.

By Mr. HERBERT: A bill (H. R. 12709) for the reclamation of the arid lands of the United States, and for other purposes—to the Select Committee on Irrigation of Arid Lands of the United States.

By Mr. HOPKINS: A bill (H. R. 12710) to prohibit speculation in gold and silver bullion and certificates representing deposits of gold and silver bullion with trust companies, etc., and for other purposes—to the Committee on the Judiciary.

PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills of the following titles were presented and referred as indicated below:

By Mr. CANNON: A bill (H. R. 12693) for the relief of John V. Bovell—to the Committee on Military Affairs.

By Mr. DALZELL: A bill (H. R. 12694) for the relief of Abraham Lisner—to the Committee on the Judiciary.

By Mr. FORMAN: A bill (H. R. 12695) for the relief of Philip H. Carr, late captain of Company A, One hundred and fortieth Illinois Volunteers—to the Committee on Invalid Pensions

Also, a bill (H. R. 12696) for the relief of John H. McElhanon—to the Committee on Invalid Pensions.

By Mr. GEAR: A bill (H. R. 12697) to amend the act of Congress approved September 29, 1890, authorizing the President to restore Tenedor Ten Eyck to the Army and place him on the retired list—to the Committee on Military Affairs.

By Mr. GREENHALGE (by request): A bill (H. R. 12698) to authorize the auditing and payment of Charles Cowley's claim—to the Committee on Claims.

Also (by request), a bill (H. R. 12699) to erect statues of John Adolph Dahlgren and Ulric Dahlgren—to the Committee on the Library.

By Mr. LODGE: A bill (H. H. 12700) to pension Samuel O. Fisher, of Lynn, Mass.—to the Committee on Pensions.

Also, a bill (H. R. 12701) directing the issue of a duplicate of a lost check drawn by A. W. Beard, collector of customs at the port of Boston, Mass., in favor of De Blois & Co.—to the Committee on Claims.

By Mr. O'DONNELL: A bill (H. R. 12702) granting a pension to Sarah Knight—to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 12703) granting a pension to Juliette De H. Roberts—to the Committee on Invalid Pensions.

By Mr. PAYNTER (by request): A bill (H. R. 12704) granting a pension to Lewis D. Terry—to the Committee on Invalid Pensions.

By Mr. RUSK: A bill (H. R. 12705) granting a pension to Julia Nolan, widow of Charles Nolan—to the Committee on Invalid Pensions.

By Mr. SHERMAN: A bill (H. R. 12706) granting a pension to Bridget Cramer—to the Committee on Invalid Pensions.

By Mr. SPRINGER: A bill (H. R. 12707) for the relief of Ellen Day—to the Committee on Claims.

By Mr. WILLIAMS, of Illinois: A bill (H. R. 12708) to remove the charge of desertion from Hugh Ferrell—to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. CANNON: Petition of C. H. Barnes and others, asking the issuance of legal-tender paper money to pay soldiers and sailors of the late war in amount equal to the difference between the gold value and greenback value of their pay with compound interest added—to the Committee on Invalid Pensions.

By Mr. CLARK, of Wisconsin: Petition of Beemon & Co. and others, of Red Cañon, Wyo., for rebate amendment to tariff tax bill—to the Committee on Ways and Means.

By Mr. GREENHALGE (by request): Petition of Charles Cowley, of Lowell, Mass., for compensation for services in the Tenth Census—to the Select Committee on the Eleventh Census.

By Mr. HENDERSON, of Iowa: Petition of 14 citizens of Cass County, Iowa, urging the speedy passage of House bill 5353, defining options, futures, etc.—to the Committee on Agriculture.

Also, petition of 17 citizens of Sac County, Iowa, urging the speedy passage of House bill 5353, defining options, futures, etc.—to the Committee on Agriculture.

Also, petition of 81 citizens of Iowa, urging same relief—to the Committee on Agriculture.

Also, petition of 26 citizens of Wapello County, Iowa, for passage of same measure—to the Committee on Agriculture.

Also, petition of 18 citizens of Spirit Lake Township, Dickinson County, Iowa, for same measure—to the Committee on Agriculture.

Also, petition of 24 citizens of Greene County, Iowa, for same measure—to the Committee on Agriculture.

Also, petition of Sand Ridge Farmers' Alliance, Promise City, Iowa, for same measure—to the Committee on Agriculture.

Also, petition of 21 citizens of Cedar County, Iowa, for same measure—to the Committee on Agriculture.

By Mr. HERMANN: Resolution from people of Umatilla County, Oregon, asking for right of way over Umatilla Indian reservation of the irrigation canal of the Umatilla Irrigation Company—to the Committee on Indian Affairs.

By Mr. HOOKER: Petition of Miss Ottillie Berton and 100 citizens of Claibourne County, Mississippi, praying that the same rates of postage on publishers be extended to authors, etc.—to the Committee on the Post Office and Post Roads.

By Mr. LAWS: Petition of ex-soldiers of Curtis, Nebr., asking for the repeal of the arrears act—to the Committee on Invalid Pensions.

Also, petition of citizens of Gosper County, Nebraska, for an appropriation to drought sufferers—to the Committee on Appropriations.

By Mr. LODGE: Petition of Highland Council, No. 36, Order of United American Mechanics, of Stoneham, Mass., for passage of legislation for restriction of immigration—to the Select Committee on Immigration and Naturalization.

Also, petition of J. E. Burbank and 28 others, citizens of Massachusetts, praying for an increase in the compensation of United States jurors—to the Committee on Appropriations.

By Mr. McCOMAS: Petition of Mrs. Juliet B. Miller, daughter of Thomas Brisco, deceased, praying that her claim may be sent to the Court of Claims under the act of March 3, 1883, to find the facts—to the Committee on War Claims.

By Mr. MORROW: Petition of certain citizens of California, for passage of a law in aid of the Life-Saving Service—to the Committee on Commerce.

By Mr. O'NEIL, of Massachusetts: Petition of Mrs. L. C. Pennell,

for legislation to prevent the improper detention of people accused of being insane—to the Committee on the Judiciary.

By Mr. RUSK: Petition of Julia Nolan, for widow's pension—to the Committee on Invalid Pensions.

By Mr. SMITH, of Illinois: Resolutions of the Board of Trade of Cairo, Ill., relative to the improvement of the Mississippi River—to the Committee on Rivers and Harbors.

By Mr. STONE, of Kentucky: Petition of William F. Crouse & Co. and 9 others, citizens of Missouri, for passage of an amendment to the tariff act—to the Committee on Ways and Means.

By Mr. WALLACE, of Massachusetts: Papers to accompany House bill for the relief of Warren V. Howard—to the Committee on Military Affairs.

By Mr. WILLIAMS, of Illinois: Affidavit in case of Thomas D. Wagnau—to the Committee on Military Affairs.

SENATE.

WEDNESDAY, *December* 17, 1890.

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

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

PETITIONS AND MEMORIALS.

Mr. FARWELL presented a memorial of the city council of Chicago, Ill., remonstrating against the licensing of the use of the United States pier in that city; which was referred to the Committee on Commerce.

Mr. HOAR. I present a petition of the Wage-Workers' Political Alliance of the District of Columbia, praying for the adoption of certain rules by the Senate.

The VICE PRESIDENT. The petition will be referred to the Committee on Rules.

Mr. VEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri rise to the question of the reference of the petition which has just been presented?

Mr. VEST. I rose in connection with the subject of the petition.

Yesterday the Senator from New Hampshire [Mr. BLAIR] presented a petition upon this same subject, as I understood—I could not catch the full meaning of what he said—and I asked that the petition be read at the time. The Senator from Massachusetts [Mr. HOAR] objected. I stated then that it was the first time in my service in this body that I had ever known a Senator to object to the reading of a petition for information.

I have never assumed to be a parliamentarian, an expert in the matter, but I thought it extremely strange that the power was given by the rules of the Senate to any individual Senator to stop the reading of a petition which was sent here under a constitutional right, in order that the Senate might be informed of its contents. I have always assumed as a general proposition that the Senate had the right, when a citizen exercised his privilege of petition, to know what its contents were, in order to ascertain whether it was respectful in terms and legitimate in its object.

I was so much impressed with what I considered the injustice of this proceeding (for I care nothing about the personal motive or actions of the Senator from Massachusetts) that I looked in the rules, an unusual thing with me, and I call attention now of the Presiding Officer to Rule XI of the Senate. Yesterday it seemed to be assumed by the Chair, of which I make no complaint, that as a matter of right any Senator could stop the reading of a petition. In Rule XI provision is made that when any paper is presented to the Senate and objection is made to its reading the Presiding Officer shall submit the question to the Senate. I assume that that covers petitions, because they are papers. I find no other rule which is exactly pertinent to the question I am now discussing.

The practice has grown up here—I never had occasion to examine it before—whenever objection is made by any Senator to the reading of any paper the Chair says it goes over. Rules XI and VII are all that I can find which will apply to this subject. Rule XI provides that whenever any objection is made, the question shall be submitted to the Senate, and Rule VII, which was not complied with in this case, as I find on examining it, requires that a condensed statement of the objects of every petition shall be indorsed in writing upon the paper itself by the Senator who offers it. The practice has grown up here, which prevailed in this case (and which caused my inquiry or request that the petition be read), of stating orally what the contents of a petition are.

Now, sir, without the slightest personal feeling, for I do not care anything about it, but in the interest (using a phrase that I have heard very frequently here) of the orderly conduct of business, I call attention to these rules.

The VICE PRESIDENT. The Chair will say, in reply to the Senator from Missouri, that he had in mind section 4 of Rule VII in his ruling yesterday, and Rule XI did not at the moment occur to him. The Chair is of the opinion that the point made by the Senator from Missouri is well taken.

Mr. HOAR. Mr. President, I should be glad to make a suggestion to the Chair and to the Senate upon the subject, if there be no objection.

The Senator from Missouri I think will not have forgotten that the petition presented was presented when other business was going on, business which was in my charge. There was no earthly reason, if the petition were to take any time by debate or by reading it at length, why it should not have been presented either in the morning hour, when there is time expressly assigned to petitions, or after the matter which was before the Senate was laid aside for the day. It was in the interest of preserving that business against interference that I made the objection. So the matter which has been discussed by the Senator from Missouri is wholly immaterial to the merits of the occurrence which took place yesterday.

But in regard to the general matter of petitions, I conceive also that the Senator from Missouri is in error. There is an express rule that petitions shall be presented with a written abstract of their contents indorsed thereon and without debate. The Senator knows very well that these documents are exceedingly numerous, coming in by the thousand, and I do not know but by the hundred thousand sometimes in the course of different sessions; and if they were to be read at length as a rule, the result would be that the debates of the Senate would be entirely taken up by the papers presented by volunteers, if they were all read at length, instead of the time being occupied by the Senators who are elected here to represent the opinions of their constituencies.

Therefore under Rule VII the reading of a petition is in the nature of debate; and to this I wish to ask the attention of the Chair. The Senate has provided that a petition shall be presented and appropriately referred, and an abstract of its contents indorsed upon it, without debate. The reading of the petition would be in the nature of debate, and it would be only when that debate was going on that Rule XI would be applicable.

> When the reading of a paper is called for and objected to it shall be determined by a vote of the Senate without debate.

It certainly never could have been the intention of Rule XI that it should be in order to take a vote upon the question of reading at length every petition that was presented. It would utterly destroy Rule VII.

It is proper to observe that the necessity of the case has led the other House to establish a rule, growing out of the large numbers of that body, very much more strict even than ours, because these petitions are not presented to the open House at all, but they are handed to the Clerk or put into a box known as the petition box and referred without being read at length or stated at all to the House by the Clerk. It is not necessary to refer to the odious and ancient precedent which the Senator's party ordered, that all petitions on a certain subject should be laid on the table without any debate whatever. I suppose nobody now would justify that rule anywhere; but, as I understand it, the present practice of the Senate is simply to require the petition to be presented and its contents stated from the minute or abstract of the petition on the back, and anything more than that is in the nature of debate.

However, at any time when the Senator from Missouri or any other Senator, especially the Senator from Missouri, whom we all respect, should state that he thought it was expedient as a matter of public interest that a petition should be read at length, I, for one, would never think of objecting if the request came at a time when there was no other business that I thought was more pressing.

Mr. VEST. Mr. President, let me say a word. I have expressly stated that I did not care to discuss the motive of the Senator from Massachusetts, as I certainly do protest against any one questioning my motive yesterday in regard to what I did in reference to this matter.

I have not stated that all petitions should be read; that is a very different proposition from the case presented to the Senate. Here was a petition presented which I thought ought to be read, as it was entirely pertinent to the matter under discussion, the election bill, and for the additional reason that Rule VII had not been complied with in that case, which requires a condensed statement of the objects of the petition to be indorsed upon it in writing. On the other hand, there was simply an oral statement, and an imperfect one, made by the Senator who offered it.

I submit that the proper time to have objected to the petition was when it was offered, but no objection was made then and I simply asked that the contents of it be made known. The whole of this question—it is not a very important one, but it ought to be settled—turns upon the proper construction of Rule XI, whether the word "paper" used in that rule applies to or covers petitions. It says when an objection is made to the reading of any paper presented to the Senate that objection does not prevail as a matter of right under the rule, but the presiding officer shall immediately submit the question to the Senate whether the paper shall or shall not be read notwithstanding the objection.

Now, I submit to older and more experienced parliamentarians